

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF OREGON

3 THE HON. MICHAEL J. McSHANE, JUDGE PRESIDING

4  
5 UNITED STATES OF AMERICA, )

6 Government, )

7 vs. ) No. 6:14-cr-00482-MC-1

8 DANIEL STEPHEN JOHNSON, )

9 Defendant. )

10  
11 REPORTER'S TRANSCRIPT OF PROCEEDINGS

12 EUGENE, OREGON

13 Tuesday, May 15, 2018

14 Day 10, Morning and Afternoon

15 Volume 9 - PAGES 1140 - 1308

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PROCEEDINGS

Tuesday, May 15, 2018, at 9:14 a.m.

THE COURT: Ready for the jury?

MR. WEINERMAN: Judge, there's one thing to bring up and that would be the jury instruction on page 27, which is the elements of counts 1-6, and I think we worked it out.

THE COURT: Go ahead. I am sorry.

MR. WEINERMAN: The column on nickname, we're asking that that be removed. I think the government is willing to do that, and I've agreed just to put those names under name. As the Court knows, the indictment does not name -- put the real names of any of the alleged victims. They identify them by number.

So of course, we have no objection to their real name being disclosed to the jury. But since there's really not been any evidence of nicknames, we feel there shouldn't be a nickname column, but the name in the current nickname column be put in the name column so there's no confusion.

THE COURT: So more -- that's called an Anglicized version of their names instead of their actual native name.

MR. WEINERMAN: For example, for BT XXXXXXXXXX it would just say under that, BT XX or BT XXXXXXXX. So ES XXXX XXX it would shift from the nickname column, ES XXX or "ES XXX," because I think along the way witnesses have

1 referred to the alleged victims by the nickname, but not as a  
2 nickname, necessarily. And just the whole term "nickname"  
3 has not come up, to my knowledge, during the trial.

4 THE COURT: It's come up a number of times. What is  
5 the government's thought?

6 MR. SINHA: Your Honor, my understanding of  
7 Mr. Weinerman's proposal is basically to strike the word  
8 "nickname" from the instruction and combine those two  
9 columns, and we're fine with that. We're just trying to make  
10 sure the jury knows who each count is referring to.

11 THE COURT: I don't think it's necessary. We can --  
12 I know the witnesses have actually used the word "nickname"  
13 in describing their own various names. I don't know how that  
14 actually translates, but the fact is, every alleged victim in  
15 the case is operating under at least two names, at various  
16 times.

17 I think we have generally known them by their  
18 shortened easier names, which are either nicknames or some of  
19 them are Anglicized names, so -- I think we have both names  
20 available to the jury so they can clarify. Some may be  
21 taking notes under the name they spelled out to the jury as  
22 their formal names. Others may have taken notes using the  
23 more general nickname, for want of a better word. I don't  
24 know how else to call it.

25 MR. WEINERMAN: Judge, the last thing I will say

1 about this is I realize the Court is not sending the  
2 indictment back to the jury. The indictment does not refer  
3 to the term "nickname". The indictment has the name by  
4 number of each victim. So again, I am not asking the Court  
5 to send the indictment back, because that doesn't help the  
6 jury very much because it just has numbers, rather than  
7 names.

8 But it just seems to me that additional information  
9 that is not in the indictment, we should keep to a minimum  
10 because the Grand Jury has returned an indictment, not based  
11 on these names, but on numbers.

12 So it just seems to me we should limit the amount of  
13 extraneous information. Nickname is not a concept that has  
14 been put into the indictment. So I -- again, I don't oppose  
15 the jury knowing which number refers to which alleged victim,  
16 but I think we should be careful about labeling these names  
17 as nicknames when that's not in the indictment.

18 As the Court knows, the government can allege in the  
19 indictment aka's. We know why they didn't do it in this  
20 case, we understand that. But we think the whole concept of  
21 nickname since it's not in the indictment should not be sent  
22 back to the jury in this instruction.

23 THE COURT: Okay. Well, I want both names on the  
24 this chart to go to the jury so there's no confusion, because  
25 multiple names have been used. We can strike "nickname" and

1 put "also known as". I don't know if that is helping you  
2 anymore than nickname.

3 MR. WEINERMAN: No, I don't think we should do that.  
4 But again, the substance, the names that may have been  
5 referred to, we have no objection to that. I really -- I can  
6 boil the argument down, and ask that the word "nickname" be  
7 stricken from this instruction.

8 THE COURT: And keep both columns.

9 MR. WEINERMAN: Sure, we can keep both columns. I  
10 don't mind that.

11 THE COURT: We will strike nickname. I think it's  
12 clear that there are two names for each minor victim. I  
13 assume you will clarify that a little bit in your closing  
14 arguments.

15 MR. SINHA: We will. And as I told Mr. Weinerman,  
16 we have slides that say "nickname" so he's agreed we don't  
17 have to change them.

18 We have one other thing we would like to raise with  
19 the Court. But the first one is with regards to the  
20 alternate jurors. I don't know what the Court's plan is in  
21 terms of dismissing the alternate jurors. We would ask the  
22 Court to consider perhaps keeping them under -- I don't know  
23 if it's sequestration, or the Court's instruction so we can  
24 use them in case we lose somebody during deliberations.

25 THE COURT: We will keep them through closing

1 argument, and I instruct them not to deliberate with their  
2 fellow jurors but to say their goodbyes and then also not to  
3 discuss the case with anybody in the event that we have --  
4 something remarkable were to happen, we would have to call  
5 one of them in to begin deliberations all over. And then we  
6 will call them as soon as a verdict comes in to let them  
7 know.

8 MR. SINHA: Thank you, Your Honor.

9 MS. BRITSCH: Sorry. Two more brief issues. First,  
10 for the record, we would like to note the two interpreters  
11 used for the government, Pauline Laurent and Rithy Lim are  
12 both certified by the State of California as Court certified  
13 interpreters in Khmer, and they were used for witnesses that  
14 primarily speak Khmer, rather than English. So we wanted to  
15 note that for the record.

16 And secondly, I believe there may be one area of  
17 dispute with respect to the defense's expert witness who is  
18 about to testify. Mr. Weinerman has indicated he may still  
19 seek to have her testify about police tactics regarding  
20 interviewing children. We still maintain an objection to  
21 that. That's outside of her area of expertise.

22 So I just wanted to note that for the Court in case  
23 the Court would like to address that before she gets on the  
24 stand.

25 MR. WEINERMAN: And, Judge, and I am going to try to



1 lay a foundation. I will just tell the Court I learned this  
2 morning that she did some work for the UN in Cambodia. I am  
3 trying to read my writing -- UN Transitional Authority in  
4 which she was involved with studying the interviewing  
5 techniques of witnesses and child witnesses so she is  
6 familiar. And I think she can testify about the lack of  
7 training in that area, that they are not trained in the  
8 techniques and the concepts of interviewing child witnesses.

9 So I think she does qualify in that very limited  
10 area. It's not going to be a major part of our presentation,  
11 but I think it is relevant and she should be allowed to  
12 testify about it.

13 THE COURT: I think you need a child forensics  
14 psychologist who specializes in this area; otherwise, you can  
15 call anybody who can Google the issue on the Internet and say  
16 what they found out. That's not her expertise. There really  
17 hasn't been evidence in this case presented by the defense  
18 that the interviews themselves in this case were defective.

19 Certainly you can put on a forensic child  
20 psychologist and say, I reviewed the interviews and they were  
21 inappropriate. They led the witness, they suggested answers,  
22 they forced the witness to answer when the witness didn't  
23 want to. Some of the general things we often hear in these  
24 kinds of cases. They were interviewed around too many  
25 people.

1           The list goes on for the kinds of issues that a  
2 forensic psychologist would raise in really any sex abuse  
3 interview. But putting a history professor on to talk about  
4 it seems to go too far, so I would sustain the objection.

5           MS. BRITSCH: Thank you, Your Honor. I don't think  
6 we have anything else before the jury comes in.

7           MR. WEINERMAN: One minute, Judge.

8           THE COURT: Yes.

9           MR. WEINERMAN: Judge, I am informed we have an  
10 unresolved objection to Exhibit 277 which is in front of me.  
11 So there are three areas. The first one -- and just for  
12 context, this is a chat between BT XXXXXXXX and Knot Mariah.  
13 I am not going to try to pronounce the last name. Who, at  
14 one time, was in a relationship with Daniel Johnson, for some  
15 context.

16           And this takes place on the day Mr. Johnson was  
17 arrested, December 9, 2013. So unlike other texts that the  
18 Court has permitted with BT XXXXXXXX complaining about things  
19 before Mr. Johnson was arrested, this text occurred after he  
20 was arrested. So the first one we're objecting to is  
21 Mr. BT X saying, "I will tell you because you are my dear  
22 sis," and then a minute later texting, "he committed sexual."

23           We're also objecting to two lines down. "I don't  
24 know for sure, but I just know he had sex with one of the boy  
25 in the center." And we feel that that is not relevant, or

1 the Court should exercise its discretion under 403 in that  
2 he's not identifying a particular person, unlike some of the  
3 other instances where he does. And then finally, he also  
4 texts to Knot Mariah that "When I talked with him about this  
5 he cried a lot, and he wanted to commit suicide." And we  
6 think the part about committing suicide should go out under  
7 relevancy on 403 grounds.

8 THE COURT: How many pages is the exhibit, because I  
9 am only seeing one page?

10 MR. WEINERMAN: The actual exhibit looks like it's  
11 five pages.

12 THE COURT: I am going to need a copy, because I am  
13 not able to scroll on the screen. I am only seeing one page.

14 MR. SWEET: I can give the Court a copy of 277,  
15 which I just marked on and highlighted. And I have a  
16 slightly longer version of the chat, which has some of the  
17 parts that we removed and I can provide both of those to the  
18 Court.

19 And I will say this, Your Honor, the conversation  
20 appears to potentially split between a discussion that  
21 Mr. BT X had regarding a boy who may have disclosed during  
22 the arrest, and then also discussions prior to the arrest,  
23 because it indicates that he confronted Mr. Johnson. So I  
24 think there's a little bit of a split with pre-arrest and  
25 post-arrest conduct.

1 MR. WEINERMAN: And, Judge, to add to the context,  
2 Mr. BT X is in the United States when this conversation, this  
3 chat is being held, and Knot Mariah, we believe Knot Mariah  
4 was in Korea at the time. So neither of them are in  
5 Cambodia. Doesn't mean they can't have information about  
6 what is going on there, but it seems to me that it's somewhat  
7 speculative. Two people in two different countries talking  
8 about something that occurred in Cambodia, and it just  
9 doesn't seem that it should go to the jury. It's confusing,  
10 and it's irrelevant.

11 THE COURT: All right. How about I take a look at  
12 it while our first witness this morning is testifying, and  
13 then we can break and I will rule a little bit more. Let's  
14 bring in the jury.

15 (JURY IN.)

16 THE COURT: Please be seated. Welcome back. Thank  
17 you. We're now going to hear from the final witness for the  
18 defense.

19 Mr. Weinerman, your next witness.

20 MR. WEINERMAN: Yes, Judge. The defense would call  
21 Dr. Trudy Jacobsen.

22 THE COURT: Go ahead and step up to the witness  
23 stand, and remain standing and you will be sworn in.

24 //

25 //

1 TRUDY JACOBSEN, PhD,  
2 produced as a witness, having been first duly sworn, was  
3 examined and testified as follows:

4 THE WITNESS: I do.

5 COURT CLERK: Please be seated. State your name for  
6 the record, spelling your first and last.

7 THE WITNESS: Trudy Anne Jacobsen, T-R-U-D-Y,  
8 A-N-N-E, J-A-C-O-B-S-E-N.

9  
10 DIRECT EXAMINATION

11 BY MR. WEINERMAN:

12 Q Can I call you Dr. Jacobsen?

13 A Yes.

14 Q Because you have a PhD?

15 A Correct.

16 Q Can you please tell the ladies and gentlemen of the jury  
17 how you are employed.

18 A I am tenured at the rank of full professor at Northern  
19 Illinois University in DeKalb, Illinois.

20 Q Can you tell us the areas of the subjects, the topics  
21 that you teach and you write about at that university, and  
22 other areas?

23 A I teach at the undergraduate and graduate level, courses  
24 in anthropology, political culture, ethnography, gender and  
25 sexuality studies, and history, specifically in Southeast

1 Asia. And my country of research, primarily, is Cambodia.

2 Q And you mentioned Cambodian culture?

3 A Yes.

4 Q And could you give us a general idea of some of the  
5 classes you teach in these subjects?

6 A Certainly. Gender and sexuality in Southeast Asia,  
7 Buddhist Southeast Asia, history of genocide, history of  
8 Cambodia, ethnographic methods, doing research in developing  
9 countries.

10 Q Could you give us a brief background on your educational  
11 background?

12 A Certainly, I hold undergraduate degrees in history and  
13 anthropology, double major. First class honors from the  
14 Columbia University of Queensland in Brisbane, Australia, and  
15 a PhD in history.

16 Q From what university?

17 A From the university of Queensland.

18 Q And just give us a little background about where you  
19 grew up?

20 A Certainly.

21 Q Where you lived up until now?

22 A Both of my parents worked in development. My father was  
23 a soil scientist, my mother is an epidemiologist. I grew up  
24 in Algeria, Indonesia, and Cambodia. And my mother first  
25 went to Cambodia when I was 13 years old. She was one of the

1 first 50 nonSoviet technical experts allowed into Cambodia to  
2 assist with the reconstruction of the country after the Khmer  
3 register in 1988.

4 Q And I judge from your accent you were born in --

5 A I am Australian.

6 Q And you lived the first how many years of your life  
7 there?

8 A Four and a half, Algeria for three, Indonesia for five  
9 and a half, Cambodia since I was 13.

10 Q Tell us about living in Cambodia from the age of 13 on?

11 A The country was still very much under the control of the  
12 Vietnamese, who assisted with the liberation of Cambodia from  
13 the Khmer Rouge in 1979. They had a shadow presence as a  
14 government for ten years until 1989.

15 Foreigners were not permitted to live in houses. We  
16 were expected to live in three different hotels. The United  
17 Nations and other aid agencies had to run their offices out  
18 of one particular hotel. Western technical experts and  
19 program officers were not allowed to interact with the Soviet  
20 technical experts.

21 There was a nightly curfew of 8:00 p.m. Schools  
22 were few and far between. I, myself, carried out  
23 correspondence studies until my senior year of high school in  
24 1991 when I returned to Australia to take my baccalaureate  
25 there.

1 Q Did you attend school when you were a teenager in  
2 Cambodia?

3 A I was carrying out correspondence classes. I also had  
4 Saturday jobs typing reports for many of the nongovernmental  
5 organizations, since I was foreign.

6 I learned Khmer when I was living in Cambodia with  
7 my mother. But I was unable to read or write it until I  
8 started doing my PhD thesis on Cambodia in the year 2000.

9 Q Let's talk about your language proficiency in Khmer.  
10 Would you tell us about that, please?

11 A I did not have formal classes. I learned Khmer from  
12 interacting with friends and people in Cambodia. Therefore,  
13 I was in an unusual position in 1992 when the United Nations  
14 transitional authority in Cambodia came in to begin to  
15 prepare for the elections in Cambodia in 1993, in that I  
16 spoke a more accurate version of Khmer from the 1980s and  
17 1990s than many experts that had learned Khmer in the 1960s.

18 THE COURT: You are going to have to slow down a  
19 little bit. We have a court reporter who has to take  
20 everything down.

21 THE WITNESS: I am sorry, ma'am.

22 Q BY MR. WEINERMAN: What is your reading and writing  
23 proficiency?

24 A When I began taking my PhD, I carried out formal  
25 instruction in Cambodia in reading and writing, so I am able



1 to read and write proficiently.

2 Q Do you have experience observing Cambodian culture?

3 A I do, both formally and informally. My mother  
4 established the cold chain in Cambodia, which is the system  
5 for keeping vaccines safe as they are carried to rural places  
6 in order to carry out mass vaccinations. So I was,  
7 therefore, able to see a great deal of Cambodia in the late  
8 1980s and early 1990s. I also maintained a residence in  
9 Cambodia from 1999 until after my son was born in the year  
10 2010.

11 Q Tell us about, I think you mentioned work with the  
12 United Nations. Tell us about your work with that, and what  
13 you did?

14 A When I finished secondary school I returned to Cambodia.  
15 I believe I took what was one of the earliest gap years. It  
16 was the late -- no, early 1990s, and I wanted to work in  
17 Cambodia before I went to university to take a degree. And  
18 it so happened that the Paris Peace Accord had been signed in  
19 1989.

20 Q We ought to back up. And one or two sentences on what  
21 that was?

22 A The UN came in to educate people on how to have an  
23 election and how to vote. I was in the fortunate position of  
24 speaking English, French, and Khmer. I was hired by the  
25 human rights component, particularly the investigation and

1 monitoring team. Our responsibility was to carry out  
2 investigations into politically motivated intimidation,  
3 harassment, assault and death. And also to train local law  
4 enforcement agents on how to carry out similar  
5 investigations.

6 Q So how long did that go on, your work with the UN?

7 A I worked for the UN from March of 1992 until September  
8 of 1993.

9 Q And have you published numerous articles and  
10 peer-reviewed monographs on aspects of Cambodian society,  
11 religion, and politics?

12 A Yes. I have two single monographs specifically on  
13 Cambodia, published in 2008 and 2017, and I believe 40 peer  
14 reviewed book chapters or general articles.

15 MR. WEINERMAN: We would ask the Court to allow her  
16 to testify as an expert on Cambodian history and culture.

17 MS. BRITSCH: No objection, Your Honor.

18 THE COURT: I will. Thank you.

19 Q BY MR. WEINERMAN: Dr. Jacobsen, let me start with a  
20 real basic question. Is Cambodia a poor country?

21 A It is among the poorest in Southeast Asia.

22 Q And could you explain why it is one of the poorest  
23 countries in Southeast Asia?

24 A Certainly. From the 1960s on, Cambodia began  
25 experiencing a civil insurgency, which affected the ability

1 of rural communities to produce regular crops of rice. The  
2 Vietnam conflict, which was happening at the same time, drove  
3 many people from farming into the cities seeking refuge.

4 Infrastructure, which was never particularly good in  
5 Cambodia since the French colonial period, began to falter.  
6 Unemployment rose, even though young people had been promised  
7 that education would lead to good government jobs, they did  
8 not eventuate. Many people were disillusioned and went to  
9 join the socialists, who they believed would provide them  
10 with a more equitable future in Cambodia as opposed to the  
11 capitalism and corruption they saw from the existing regime.

12 In 1970 the leader of the government, Sihanouk,  
13 S-I-H-A-N-O-U-K, was deposed in a coup. He sought exile in  
14 China, and soon joined the Khmer Rouge who promised to  
15 reinstate him if --

16 Q Tell us briefly who the Khmer Rouge was?

17 A The Khmer Rouge -- there were two groups of the Khmer  
18 Rouge. One is lasting from the 1930s with Ho Chi Min  
19 IndoChinese Communist Party. Cambodians who were  
20 disillusioned with the idea of colonialism and capitalism  
21 joined in a vision of social utopia in mainland Southeast  
22 Asia.

23 Another group, people who were educated in France  
24 during the colonial period, and they came into contact with  
25 French communists and socialists in the 1940s and '50s began

1 to spread ideas of a socialist government. During the 1950s  
2 and '60s, when political parties were allowed to form, these  
3 people tried to participate in usual political activities and  
4 were repressed by the Sihanouk's government. They went and  
5 joined the former communists --

6 Q Let's move a little more into more modern times, and  
7 again, the context of the question is why is Cambodia a poor  
8 country, whether we get into employment, lack of education,  
9 things like that. So we can -- so we have information about  
10 the current situation in Cambodia in terms of poverty.

11 A Definitely. In 1979 when the Khmer Rouge were deposed,  
12 a quarter of the population had either died of malnutrition,  
13 torture, purges by the Khmer Rouge, or had fled the country  
14 to neighboring Thailand and Vietnam.

15 Q So you are saying it lost a quarter of its population  
16 either to immigration or death?

17 A Fleeing rather than immigration. And even before the  
18 Khmer Rouge took power, the educated elite had managed to get  
19 out of the country fleeing to France or the United States,  
20 where they remained during the Khmer Rouge period.

21 In 1979 the Vietnamese assisted the remaining  
22 Cambodians, many of whom did not have the necessary skills to  
23 rehabilitate their own country in beginning to get the  
24 country back together. This was hampered by the fact the  
25 Khmer Rouge continued a civil war against the Cambodians

1 until 1997. Apart from a brief period during the UN, when  
2 they agreed to participate in the elections and then reneged.

3 With all of the civil war, it was very difficult for  
4 Cambodia to continue to grow their own food, to reconstruct  
5 what little infrastructure had been in place previously, and  
6 the government was dealing with a civil insurgency as opposed  
7 to trying to rehabilitate the country.

8 There was very little investment in education, very  
9 little investment in social programs that we would expect in  
10 a country of Cambodia's size.

11 Q So fast forward to more recent times, like today, if you  
12 know, what the average per capita gross income is, of the  
13 average Cambodian --

14 A GDP is \$3,700 on paper, but this is skewed because there  
15 are a group of very, very rich Cambodians, and there are a  
16 large number of Cambodians who are extremely poor, so the  
17 average is misleading.

18 The majority of Cambodians living in a rural  
19 situation would be largely subsistence farmers, small  
20 livestock holders, and existing on remittances from family  
21 members working in the cities, and whatever cottage  
22 industries they are able to produce.

23 Q So let's talk about what is going on right now. Tell us  
24 about the urban population, the capital is Phnom Penh,  
25 correct?

1 A Correct.

2 Q What percentage of Cambodians live in the urban area of  
3 Phnom Pehn?

4 A The official statistics state that 90 percent of  
5 Cambodians are rural dwellers. This is also misleading  
6 because when people are not required to perform agricultural  
7 tasks, so for example, when you are not planting rice or  
8 harvesting rice, it has been traditional for people to go to  
9 the cities to seek other forms of temporary labor.

10 It's very common for men, particularly, to come to  
11 the cities to provide public transport on their motorbikes or  
12 tuk tuk, et cetera. And then once they are needed back in  
13 the countryside, they will return then. So the population is  
14 fluctuating.

15 Q So let's talk about, if this is the right term, the  
16 migration of people, particularly young people, from the  
17 rural areas, agricultural areas, into the cities.

18 A Sociologists and demographers have noted that  
19 particularly in the last ten years, with foreign investment  
20 increasing in Cambodia, in the form of establishing many  
21 factories, such as the Gap factory, Banana Republic, who have  
22 factories in the north of Phnom Penh, increasingly South  
23 Korea and Chinese businesses are choosing to manufacture in  
24 Cambodia as well, because labor is cheaper than in their own  
25 countries, a large number of young people, particularly,

1 don't want to stay and grow rice. They want to come to the  
2 cities and take what they perceive as more lucrative jobs in  
3 these factories, believing that they will then be able to  
4 enjoy consumer goods such as cell phones, TVs, and remit  
5 money back to their families living in the rural countryside.

6 Q So there's a shift in population from the rural areas to  
7 the urban areas, but we don't know in terms of numbers?

8 A No. I mean there are some studies, but they are on one  
9 province at a time, so we don't have a good idea.

10 Q Do they have a census in Cambodia?

11 A They do. I believe the next one is due to be carried  
12 out in 2019.

13 Q So tell us about the educational opportunities in the  
14 rural areas versus the urban areas. And again, what parents  
15 of young kids in the rural areas do in terms of educating  
16 their kids.

17 A At the village level, which may be ten houses with rice  
18 paddies in common that they farm, children will often walk an  
19 hour to the nearest school, as a matter of course. If  
20 children want to go to the high school -- there's only a  
21 primary school and high school. There's no middle school in  
22 Cambodia -- they will often have to use some other form of  
23 transport to get to a high school in a larger town. Or,  
24 which is more common, they will have to go live with a  
25 relative in that larger town.

1           If people wish to go to university or vocational  
2 training, they have to go and live in the capital city of  
3 Phnom Penh. It is not a common cultural practice for people  
4 to go and live alone in Cambodia, rent an apartment. There's  
5 no dormitory attached to the university. Therefore, the  
6 expectation is you will go and live with family.

7       Q     So what about elementary school? Kids who are  
8 elementary school, middle school age who live in the rural  
9 areas, agricultural areas? Has there been a shift of  
10 population of those kids leaving their parents, if they  
11 exist, and leaving the agricultural areas and moving to  
12 cities, like Phnom Penh, for education?

13       A     Since the UN election, parents have realized  
14 increasingly that for their families to get ahead, English  
15 language is important. There is no English language  
16 instruction in the elementary school system in Cambodia. So  
17 most parents will send their children to the local school,  
18 and then send them to an international school where they will  
19 learn English or Chinese or Korean, is becoming increasingly  
20 common. But those private schools for language instruction  
21 don't exist in the countryside. They exist in the larger  
22 cities. Battambang, B-A-T-T-A-M-B-A-N-G, and the capital,  
23 Phnom Penh.

24       Q     So if -- the kids who wind up in Phnom Penh for  
25 educational purposes, what has your observation been as far



1 as their parental situation, whether they have parents to  
2 send them, whether they are orphans, explain that to us.

3 A There is no data listing the numbers of children who  
4 have been sent from the countryside. It is, however, an  
5 extremely common practice. Almost -- I would imagine, most  
6 children who are in Phnom Penh attending an international  
7 school are not originally from the city center itself.

8 Q In Cambodia does the state provide educational services,  
9 or are there other organizations that fill that void?

10 A The state provides schools, and a teacher in the school.  
11 The teacher is usually poorly paid in comparison to what we  
12 would see in the United States, and often has a second job  
13 tutoring or teaching in a private school.

14 Parents are expected to provide school uniforms, buy  
15 text books, and exercise books, pencils, et cetera. Into the  
16 void for language instruction have stepped a number of  
17 organizations. For example, the Australian Center for  
18 English has a variety of scholarships funded by private  
19 donors for Cambodians who wish to learn English to attend.  
20 And there are similar schools that have private donor schemes  
21 to provide instruction for students.

22 Q Are there private organizations, of NGOs, religious  
23 organizations, that provide services, education, shelter,  
24 food for young people who live in the city Phnom Penh?

25 A Certainly. In fact, in the absence of government

1 services, particularly -- and this is my area -- people who  
2 are survivors of trafficking or domestic violence, rape,  
3 there are no government services for them. Therefore, the  
4 only recourse people in this situation have is to go to  
5 either nonprofit organizations funded by foreign governments,  
6 or faith-based organizations, not necessarily Christian.  
7 There is an organization called CAMAN, which is funded,  
8 C-A-M-A-N -- which is funded from Malaysia, and donations  
9 from the Middle East, for example.

10 There are organizations that have been set up to  
11 provide a place for children to live while they attend high  
12 school and university that is privately funded from Belgium.  
13 And Somaly Mam Foundation for victims of trafficking and  
14 child sex abuse, et cetera, which is probably one of the more  
15 famous ones.

16 Q Some of the organizations that provide these services  
17 are faith based?

18 A Yes.

19 Q And different religious denominations?

20 A Absolutely.

21 Q Including Christian organizations --

22 A Including different denominations of Christian --  
23 there's a Mormon one, Presbyterian one. There's a Scottish  
24 Methodist one. I believe every denomination would be  
25 represented if we did a survey.

1 Q So would it be fair to say that if someone wants to be  
2 upwardly mobile, if a parent wants their child to be upwardly  
3 mobile, their best bet is to get out of the rural areas to  
4 get into the urban areas for education support?

5 A Absolutely. There are very few resources available for  
6 rural parents who wish their children to get what would be  
7 considered a comprehensive education and be able to enter  
8 into a job in a lucrative sector, such as tourism, where  
9 either English, Korean, or Chinese is necessary.

10 Q During this trial we have heard the term "orphanage."  
11 We have heard the term "center." Could you tell us your  
12 observations about orphanages in terms of the parents, are  
13 there parents, are the parents alive, are the parents  
14 deceased? What are the criteria?

15 Let me ask it this way: What is the criteria and  
16 the ability to verify the criteria for a child, let's say  
17 from a rural area being able to live in an orphanage or  
18 center in Cambodia, in Phnom Penh, in order to access the  
19 services that are available there?

20 A Being an orphan in Cambodia is simply somebody who  
21 either does not know where their parents are, or has not seen  
22 them for an extended period of time, or is not living with  
23 them. And there is a cultural tradition in Cambodia of  
24 parents sending their children to live with more affluent  
25 relatives in order to access educational services or to pay a

1 debt. And the child would receive education in return for  
2 doing chores around the house.

3 Living apart from your parents in Cambodia was never  
4 something that was odd or uncommon. The existence of  
5 orphanages really began in Cambodia after the Khmer Rouge  
6 period when so many children had lost parents, and they did  
7 not know where they were.

8 Q In the West, our conception of orphanages is your  
9 parents are deceased. Is that the same thing in Cambodia?

10 A It is not.

11 Q So I want to ask you a few questions about the system of  
12 documenting births in Cambodia. Do they have a similar  
13 system like we have here in the West?

14 A Well, no. To begin with, most births would be carried  
15 out in the home. Nobody comes by with paperwork when a baby  
16 is born. The onus is on the parents to go and register a  
17 birth.

18 But this might not take place until there is some  
19 need for the child's existence to be documented, so for  
20 example, to go to a school. Most children don't get issued a  
21 birth certificate. A parent will go to the village chief and  
22 state this child has been born on this date, this is their  
23 name, and the village chief should keep a record in the  
24 village. Many do not.

25 In some villages the system is you go to the nearest

1 district capital and register there. This, again, might be a  
2 long way away, and somebody may not have a reason to go to  
3 the district capital for months or years. And, therefore,  
4 also the ability of a central authority in Phnom Penh, for  
5 example, to issue a driver's license or a passport might not  
6 have any way of getting to the person responsible for record  
7 keeping at the district level.

8 Q Is registration contemporaneous with the birth, or not  
9 necessarily?

10 A Not necessarily.

11 Q We talked a little bit about the civil servant system in  
12 Cambodia. Government jobs, village jobs, how are they paid?

13 A The government does have a budget for civil servants,  
14 and included in that categorization are teachers, police  
15 officer, magistrates, village chiefs, et cetera. They are  
16 very poorly paid. For example, a mid-level police officer in  
17 Phnom Penh makes \$240 a month, which is not enough, even in a  
18 country like Cambodia that is less expensive in terms of  
19 paying rent and food, it is not enough to support a family.  
20 Therefore, almost everybody there has another job and a  
21 family business, probably.

22 Q Are there other ways to supplement one's income, other  
23 than a second job?

24 A Certainly. There's a concept in Cambodia called Ahasai.

25 Q You have to spell that one.

1 A I am about to. A-H-A-S-A-I. It literally means cords,  
2 and it's a system wherein everybody is in some form of  
3 reciprocal relationship. So if your uncle lives in the  
4 district capital, you are a farmer, you will make sure you  
5 send mangoes to that uncle, so if it happens that you get  
6 into some legal trouble, he will be able to pull strings for  
7 you so that nothing too bad happens to you. If you are a  
8 student, you should bring a present of some kind to your  
9 teacher. And the teacher then will emit goodwill towards  
10 you.

11 This sometimes can be corrupted. There have been  
12 some very famous cases of teachers at the law school not  
13 allowing students to sit for the law exam, because they  
14 hadn't received a nice enough present. But everyone is in  
15 some kind of obligation to each other.

16 Q So this is part of the culture?

17 A Yes, it's not perceived as corruption.

18 Q So I have some questions about some of the cultural  
19 practices in Cambodia that may be different than ours. First  
20 of all, could you talk a bit about -- not immigration  
21 policies of the United States -- but the movement of  
22 population out of Cambodia due to poverty and other reasons?

23 A Certainly. I mainly work with women who are trying to  
24 obtain a marriage partner in the West, particularly, but  
25 increasingly in China, South Korea, as these places become

1 more affluent.

2 And the reason for this is the majority of people  
3 who had some form of dual citizenship, whether the United  
4 States or France, before the Khmer Rouge were able to escape  
5 and be safe, and then be able to return to Cambodia. During  
6 the Khmer Rouge period, obviously people are aware of the  
7 genocide, the suffering, family members dying, horrible  
8 malnutrition, tortures and death, and for this reason people  
9 in Cambodia never feel quite secure about not being able to  
10 get out of the country.

11 And increasingly, anyone with any financial assets  
12 don't want to keep them in Cambodia. They want to keep them  
13 in another country where they know what happened under the  
14 Khmer Rouge was the obliteration of money, bank accounts,  
15 deeds of property were completely obliterated never to be  
16 recovered. So it's seen as insurance, having a passport to  
17 another country.

18 Q And in general, how do people go about leaving Cambodia  
19 if they can, and where do they want to go?

20 A Those with enough money are able to send their  
21 university age children to other countries to go to school.  
22 So New Zealand, Australia, the United States, France, Western  
23 countries, and Japan to some extent.

24 Once people have a visa to study in a country, it's  
25 relatively easy to convert it to permanent residency and then

1 citizenship. That's one avenue, but that's only available to  
2 very wealthy people.

3 Women often try to form relationships leading to  
4 marriage with men who do visit Cambodia quite often. And  
5 often older men come to Cambodia looking for a younger woman  
6 who might like to come back and live with them in their home  
7 country. This is another avenue. It's becoming more and  
8 more difficult, however, for these visas to be issued by a  
9 country such as United Kingdom and Germany have been cracking  
10 down on this for some time. This did not begin in Cambodia,  
11 but in other countries there has been -- there are often  
12 visas --

13 MS. BRITSCH: Objection, Your Honor. I am going to  
14 object to the relevance of immigration visas in other  
15 countries.

16 THE COURT: Sustained.

17 Q BY MR. WEINERMAN: So how -- you talked about what  
18 wealthy people try to do to leave Cambodia. What about poor  
19 people? What are the options available to them if they want  
20 to leave the poverty of Cambodia, to leave and go to a  
21 Western country?

22 A Sometimes they will sign on to work units, for example,  
23 working in construction in Vietnam or Thailand. And once  
24 there, try and remain in those countries, and from there  
25 springboard to others in the West. Some people use work



1 visas to come to a country, such as the United States, on a  
2 six-month work visa, and then stay. Others use other means,  
3 such as special visa categories, where they can go to, for  
4 example, give -- to go to a wedding, and then they will stay  
5 and overstay their visa, and not have a legal reason to be in  
6 that country anymore.

7 There are other options however, people can  
8 convert --

9 THE COURT: You need to slow way, way down, or we're  
10 not going to get all of this on the record.

11 Q BY MR. WEINERMAN: Again, getting back to a poorer  
12 person, is there an option available to at least try to come  
13 to a Western country to study?

14 A Yes.

15 Q And how would someone who is poor, who doesn't have the  
16 financial means, how would they go about doing that?

17 A Usually they would have to come to the attention of a  
18 private donor or organization that would fund such an  
19 activity for someone. Particularly in the Cham community in  
20 Cambodia who are Muslims, wealthy Malaysians are funding Cham  
21 Muslim kids to come study in Malaysia, for example.

22 Q So you would need a benefactor?

23 A You would. You would not be able to do it yourself.

24 Q You may have touched upon this, but in general, do  
25 people in Cambodia, are they still concerned about their

1 safety in remaining in Cambodia?

2 A Yes. Even though things have been very calm, as the  
3 civil war has been ended now for some time, over 20 years,  
4 there is still a fear in Cambodia that these things could  
5 happen again, the genocide could happen again. There is also  
6 a fear from current -- the current government, which has  
7 recently taken a turn towards being very oppressive with the  
8 elimination of all other political parties recently, the  
9 closing of newspapers that are anti-government in their  
10 rhetoric.

11 But also people are sort of victims of the state as  
12 the state sells off land, and they evict people without  
13 providing an alternative accommodation. And when people  
14 protest, even peacefully, the government responds very  
15 violently. So state agents are not seen in Cambodia as  
16 people to trust. They are seen as people of whom you should  
17 be scared.

18 Q What is the Prime Minister's name?

19 A Hun Sen, H-U-N, S-E-N.

20 Q And how long has he been the Prime Minister?

21 A He has held high government office since 1984. He was  
22 elected Prime Minister in 1993 in the UN election, and has  
23 remained there.

24 Q In your opinion, are there free and fair elections in  
25 Cambodia?

1 A I believe the 1993 election was free and fair. The  
2 others, which have occurred every five years, have become  
3 increasingly beset with electoral irregularities.

4 Q The second-to-last area, talk about some of the domestic  
5 culture. First, sleeping arrangements in a family. Could  
6 you touch upon that a little bit? What might be a little  
7 different than what we're accustomed to in the West?

8 A First of all, the concept of family, it's not a nuclear  
9 family. Many extended family members will live together in  
10 one household, especially in rural areas. A household might  
11 be one room. It's simply one room. Everybody sleeps in the  
12 same room under different mosquito nets.

13 But people share sleeping mats. People share beds.  
14 I have seen as many as six children in a double bed together.  
15 This is a normal practice. There's only one bed. If it's  
16 very hot, people might sleep under the house, as well as in  
17 it. But everyone is sleeping together. The concept of  
18 privacy is not really that common.

19 Q How about adults sharing the same bed with children?

20 A Yes, that's very common. There is usually only one bed  
21 elevated off the floor.

22 Q Might there be other reasons for adults and children to  
23 share beds, other than the lack of space?

24 A Well, malaria and dengue fever are very serious problems  
25 in Cambodia, and the acquisition of a Deet net are very

1 effective against eliminating those diseases, might mean only  
2 one exists per family, so everybody will get underneath it.

3 Q When you are talking about adults sleeping in the same  
4 bed with children, are they part of the nuclear family, or  
5 are there other adults who could be in that arrangement?

6 A Other adults, depending on the particular family  
7 dynamic. It's not considered to be a sexual thing.

8 Q Let's talk a little bit, we have heard a lot of  
9 testimony in this case about massage, massaging. Could you  
10 tell us about the custom of massaging in Cambodia?

11 A Again, it's not considered to be a prelude to sexual  
12 behavior, as I believe it is in the West. It's considered to  
13 be medicinal. And there are other -- apart from massage,  
14 there's things such as cupping or coining, which is when you  
15 take a coin and run it down various parts of the body,  
16 depending on what is afflicting you at the particular time.

17 And it's common for household members to perform  
18 these tasks, and others that, I guess, we would consider  
19 grooming, such as searching the hair for lice, to be a  
20 function of existing in the same household.

21 Q And the attire that is worn, there's been some testimony  
22 about people getting massages without a shirt on. Is that  
23 common, or is the custom that the person receiving the  
24 massage is fully clothed?

25 A I have never seen anyone in Cambodia getting a massage

1 being fully clothed.

2 Q Partially clothed?

3 A It is -- if someone is going to a doctor or a  
4 practitioner of massage or coining in order to receive  
5 treatment for some ailment, you are not wearing your clothes.  
6 You will be asked to remove them to receive this treatment.  
7 If it is being carried out in the household, people wouldn't  
8 be fully clothed anyway, because most people have only one  
9 set of good clothes that they wear to work or university or  
10 to school. So as soon as you come home, Cambodia is very hot  
11 and your clothes soil easily. So people will remove them and  
12 put on something comfortable.

13 For women, it might be loose pajamas. For men, it  
14 might be baggy pajama pants, or a sarong, or something like  
15 that until everyone has a shower before they leave the house  
16 again, putting their good clothes on again.

17 Q So using -- not wearing good clothes inside the house?

18 A Right.

19 Q You mentioned wearing a sarong, a short --

20 A Like a length of cotton cloth that you just tie around  
21 your waist. Women would tie it around up here (indicating),  
22 or wearing sort of pajama shorts or shorts. Something like  
23 that, just something loose and comfortable.

24 Q What about men wearing a very short attire around their  
25 waste covering their private parts, not having a shirt on,

1 have you observed that in Cambodia?

2 A As long as your genitals are covered, and breasts for  
3 women, you are not considered to be risque or obscene. It  
4 would be normal.

5 Q Is there any cultural connotation to someone,  
6 particularly a male, just wearing a short covering over the  
7 lower part of their body?

8 A No.

9 Q Perhaps what I was getting at, and I hope I can spell  
10 this right, the concept of O-M-N-A-I-C-H, "Omnaich," tell us  
11 about that.

12 A Omnaich, so in Cambodia there are different forms of  
13 power you can have in society. One of them is sel, which is  
14 a kind of Buddhist, you are a good Buddhist. You perform  
15 good work. Omnaich is political power, so you have the  
16 ability to make other people do what you want to be done,  
17 like charisma, I think we would call it in the West.

18 Omnaich, you have Omnaich if you are the quietest  
19 one at a business meeting. Everybody else is talking and  
20 arguing. The person who has Omnaich at the table is the  
21 person who doesn't say a word, they don't need to. But when  
22 they do speak, everyone else is quiet.

23 Q Who normally occupies those types of positions?

24 A In society, it's people who have the ability to make  
25 your life miserable. So people like the police, for example,

1 the tax collectors. In relation to students, teachers have  
2 more Omnaich than the students do. In the household, it's  
3 the head of the household, which may not necessarily be the  
4 father, sometimes it's the mother, or sometimes it's an uncle  
5 whose house it is, but he's allowing his relatives to live  
6 there. It depends on the circumstances.

7 MR. WEINERMAN: Let me just check my notes. I have  
8 no further questions.

9 THE COURT: Cross-examination.

10 MS. BRITSCH: Thank you. We have no questions, Your  
11 Honor.

12 THE COURT: Thank you, Dr. Jacobsen. You are free  
13 to go.

14 Any further witnesses from the defense?

15 MR. WEINERMAN: No, Your Honor.

16 (Defense Rests.)

17 THE COURT: Any rebuttal?

18 MR. SINHA: No, Your Honor.

19 THE COURT: Reserving issues around exhibits, both  
20 sides have closed their cases, folks. We're going to take a  
21 morning break. When you come out, we'll read the legal  
22 instructions that apply to the case, and then we will begin  
23 our closing arguments.

24 (Jury Out.)

25 THE COURT: With regard to Government Exhibit 277, I

1 have read the proposed exhibit. A lot of it is not relevant.  
2 There's a lot of talk of God, repentance, sin, morality. I  
3 think the relevant statements, if they are to be considered,  
4 consistent -- prior consistent statements of the witness are  
5 that he committed sexual, but then BT XXXXXXXXXX says, "I  
6 don't know the story for sure, but I know he had sex with the  
7 boy in the center. When I talked with him about this, he  
8 cried a lot, and he wanted to commit suicide."

9 I guess my issue with that is within the context of  
10 the statement he says, I don't know for sure. I just know  
11 but it doesn't tell you the context, really, of his  
12 testimony, which was that he had -- at least one boy had come  
13 forward to him to talk about it.

14 So at this point it seems mostly irrelevant,  
15 somewhat confusing with the hearsay nature of the actual  
16 statement. And also I would think somewhat cumulative at  
17 this point, so I will sustain the objection to 277.

18 MR. SWEET: Your Honor, just to clarify, if I may, I  
19 believe the defense was objecting to just three parts of 277,  
20 three small subsections of it. That may change after what  
21 the Court just said --

22 MR. WEINERMAN: It just changed.

23 THE COURT: I mean, they are objecting to the  
24 salient part, which is the actual statements, which I think I  
25 have addressed. The rest of it, in my mind, seems



1 irrelevant.

2 MR. WEINERMAN: Judge, if this jury reads every page  
3 of every exhibit, we will be here until next May, so it's  
4 cumulative.

5 MR. SWEET: To clarify, Your Honor, did the Court  
6 mention a part of 277 that the Court was not troubled by?  
7 And I would say when Mr. BT X is talking about, "I want to  
8 see him repent for his sins and then he can go to haven," is  
9 what he wrote. The government did discuss that with BT XXX  
10 XXXX, and some of his other things that he wrote.

11 And the relevance is that Mr. BT X has been accused  
12 of doing this to come get a visa, and here he is expressing  
13 his love, his concern, his concern for Mr. Johnson's  
14 salvation. He expressed a concern for his soul on the stand.  
15 And he talks about having confronted Mr. Johnson before.

16 He talks about I did -- on the very first page, "I  
17 did go talk with him" -- well, six lines down, "I have been  
18 praying for him for six year and I did go talk with him, but  
19 he's still the same. I knew one day this going to happen for  
20 him and I did tell him."

21 So that's going to a prior discussion with -- with  
22 Daniel. And it's clear that it's regarding sex, because he  
23 discusses -- it's about immoral, God is punishing him. I  
24 understand what the Court is saying regarding the uncertainty  
25 about the sex with the boy, the suicide, but all this talk

1 about, "He told me he wants to change but he can't." "Did  
2 you have sex with him?" "He try to, but I didn't allow,"  
3 that's clearly, the last part about having sex with him, is  
4 consistent. That's the top of page 3.

5 And perhaps counsel and I could take one more crack  
6 at this, and come down to a stripped-down version that we  
7 could try and see if we can reach.

8 THE COURT: No, I think that's helpful, Mr. Sweet.  
9 I was looking at this just in the context of prior consistent  
10 statements, and not -- I didn't have a complete understanding  
11 of the context of relevancy that you have just laid out.

12 So that does make sense to me that the statements  
13 that talk about why, his concern for Mr. Johnson, as opposed  
14 to his desire to come to the United States would come in.

15 I still share a concern, and I think these really  
16 were the concerns that the defense had about the somewhat  
17 vague nature of his knowledge in what other boys may have  
18 said.

19 MR. SWEET: The government is happy to strike that,  
20 Your Honor, and I believe that would be December 9, 2013 at  
21 12:07. There are three sections for that.

22 THE COURT: If you strike those, I will allow 277.

23 Sorry, Mr. Weinerman, I didn't understand the  
24 relevance of the document until Mr. Sweet put it into some  
25 context for me.

1 COURT CLERK: That will be admitted as redacted?

2 THE COURT: Yes.

3 (EXHIBIT 277 RECEIVED.)

4 THE COURT: So in terms of how we want to proceed,  
5 it's 10:19, and 10:30 when we bring the jury back out. We  
6 can go forward this morning, probably about 15 minutes of  
7 instructions. I think the government said they were about  
8 45 minutes.

9 I guess the question is, do we want to break for an  
10 early lunch and do closings completely, following an early  
11 lunch, or do we want to get some of it in this morning?

12 MR. SINHA: The government may be closer to an hour  
13 once we put it together.

14 THE COURT: Still shorter than I thought you would  
15 be.

16 MR. SINHA: Our preference would be to break for  
17 lunch, because we're going to try to move the television over  
18 so our PowerPoint can be viewed by the jury. So that would  
19 be our preference, to do an early lunch.

20 MR. WEINERMAN: I'm not giving the closing,  
21 Ms. Maxfield is, but it seems it's fairer for there not to be  
22 a break. We should go all the way through, whether we do it  
23 all in the morning or all in the afternoon. That would be  
24 our preference.

25 THE COURT: So we will instruct them this morning,

1 and then we will break for an early lunch, and what if we  
2 start back up at 12:30?

3 MR. WEINERMAN: You are just going to instruct.

4 THE COURT: We're going to instruct. But let's take  
5 a short break, and then I will hopefully give the  
6 instructions in a clear voice, and we will break when that is  
7 done until 12:30.

8 (Brief recess taken from 10:20 a.m.  
9 to 10:42 a.m.)

10 MR. WEINERMAN: First thing, I would like to renew  
11 the Rule 29 motion, which we have to do after we rest our  
12 case.

13 THE COURT: All right. Consistent with my earlier  
14 ruling, I will deny the motion.

15 MR. WEINERMAN: And then I would like to read into  
16 the record -- the government has no objections to any of  
17 them, but to make sure they get to the jury. Exhibit 600,  
18 Exhibit 602 through 618, so all of those numbers, rather than  
19 read each one individually. Exhibits 624, 625, 700, 701-A,  
20 701-B, 709, 710, 711, 713, 716, 717, 720 through 723, and 726  
21 through 729.

22 THE COURT: All right. Thank you.

23 MR. WEINERMAN: And the last matter, Judge, I was  
24 looking at Federal Rules of Criminal Procedure 30(d), which  
25 deals with objections to instructions and having to do it out

1 of the presence of the jury, and out of the jury's hearing.  
2 And requiring us to make specific objections, and the grounds  
3 before the jury retires to deliberate.

4 If it's acceptable to the Court, I would like the  
5 record to reflect that the Court has considered our  
6 objections previously made, including the ones in the  
7 pretrial conference, and that we satisfied the requirement of  
8 Rule 30. I have seen some judges, before the jury -- after  
9 they are instructed and they hear argument, and before they  
10 retire, call us up and ask if there's any exceptions other  
11 than previously made. So I want to make sure we had complied  
12 with the rule, and are not stuck with plain, narrow review if  
13 there's an appeal in the case.

14 THE COURT: Yes, you complied with the rule, and I  
15 think I will tell the jury not to begin deliberations until  
16 they are instructed by Ms. Pew to do so, because you are  
17 going to have to -- the alternate jurors are going to have to  
18 gather up their things and leave while that is happening.

19 We can put on the record whether there's any  
20 additional exceptions, and then Ms. Pew can instruct them to  
21 begin their deliberations.

22 Mr. Sweet.

23 MR. SWEET: The government's exhibits -- and the  
24 government has no objection to the exhibits that the defense  
25 read. We went over these last night. I don't recall each

1 and every number, but we went over them together so we're  
2 fine with that. And likewise, the government has filed a  
3 third exhibit list which ends with 312, so rather than read  
4 those into the record, the government would move to admit --  
5 and I believe there may be a few that Ms. Pew notes that  
6 weren't actually admitted, 1 through 312, except the ones  
7 that are noted as withdrawn.

8 We did go over these with the defense yesterday  
9 afternoon. We made a few redactions and withdrawals since  
10 then, which are reflected in this list. And 312 is the board  
11 in the back, which we're going to ask that that go to the  
12 jury, as well. So there -- I believe there are no objections  
13 to 1 through 312, except the ones that were withdrawn.

14 THE COURT: We will bring the jury in for  
15 instructions.

16 (JURY IN.)

17  
18 JURY INSTRUCTIONS

19 THE COURT: All right. You have heard all the  
20 evidence in the case. Thank you, again, on behalf of all the  
21 parties, and myself and my staff for all the work you've put  
22 into this case. My plan is to give you the instructions this  
23 morning. It's going to take some setting up for closing  
24 argument, so we're going to break early for lunch and have  
25 you back here at 12:30, in which case we will start our

1 closing arguments. When those are complete, we will then  
2 begin the deliberations.

3 You will have a copy of these instructions with you  
4 in the jury room. We will make one for each of you, so do  
5 not feel like you have to write down everything I am saying.

6 It is your duty to weigh and evaluate the evidence  
7 received in the case, and in that process, decide the facts.  
8 It is also your duty to apply the law as I give it to you, to  
9 the facts as you find them, whether or not you agree with the  
10 law or not. You must decide the case solely on the evidence  
11 and the law. Do not allow personal likes or dislikes,  
12 sympathy, prejudice, fear, or public opinion to influence  
13 you. You should also not be influenced by any person's race,  
14 color, religion, national ancestry or gender, sexual  
15 orientation, profession, occupation, celebrity, economic  
16 circumstances, or position in life or in the community. You  
17 will recall that you took an oath promising to do so at the  
18 beginning of the case.

19 You must follow all of these instructions and not  
20 single out some and ignore others. They are all important.  
21 Please do not read into these instructions, or into anything  
22 I may have said or done, any suggestion as to what verdict  
23 you should return -- the matter is entirely up to you.

24 Because you must base your verdict only on the  
25 evidence received in the case and on these instructions, I

1 remind you that you must not be exposed to any other  
2 information about the case or to the issue it involves,  
3 except for discussing the case with your fellow jurors during  
4 deliberations.

5 I have given you throughout the trial and in the  
6 beginning of the trial, several warnings about not listening  
7 to the media, not discussing the matter outside of court,  
8 being in a position where you are not overhearing others talk  
9 about the case. So I am not going to read to you those  
10 instructions again. But I will read -- some of these are  
11 repetitious from earlier, but I think they are worth  
12 repeating.

13 The first is, what is evidence? The evidence you  
14 are to consider in this case in deciding the facts consists  
15 of the sworn testimony of any witness, and exhibits that are  
16 received into evidence, any facts to which the parties have  
17 agreed, called stipulations, and any facts that the Court has  
18 instructed you to accept as true.

19 So what is not evidence? Reaching your verdict you  
20 may consider only those things that are previously listed.  
21 The following things are not evidence, and you may not  
22 consider them in deciding what the facts are. One,  
23 questions, statements, objections and arguments by the  
24 lawyers are not evidence. The lawyers are not witnesses.  
25 Although you must consider a lawyer's question to understand



1 the answer of a witness, the lawyer's questions are not  
2 evidence.

3 Similarly, what the lawyers have said or will say in  
4 their opening statements -- or said in their opening  
5 statements and will say in their closing arguments, and at  
6 other times is intended to help you interpret the evidence,  
7 but it is not evidence. If the facts, as you remember them,  
8 differ from the way the lawyers state them in their  
9 arguments, your memory of them controls.

10 Two, any testimony that I have excluded, stricken or  
11 instructed you to disregard is not evidence. Three, anything  
12 that you may have seen or heard when court was not in session  
13 is not evidence. You are to decide this case solely on the  
14 evidence received at the trial.

15 Direct and circumstantial evidence, there are two  
16 types of evidence, direct and circumstantial. Evidence may  
17 be direct or circumstantial. Direct evidence is direct proof  
18 of a fact, such as the testimony of an eyewitness about what  
19 that witness personally saw or heard or did. Circumstantial  
20 evidence is indirect evidence, that is it's a proof of one or  
21 more facts from which you can find another fact. The proof,  
22 sometimes, we would describe it as proof of a chain of facts  
23 pointing to the existence or nonexistence of another fact.

24 You are to consider both direct and circumstantial  
25 evidence. Either can be used to prove any fact. The law

1 makes no distinction between the weight to be given to either  
2 direct or circumstantial evidence. It is for you to decide  
3 how much weight to give the evidence.

4 You have watched transcripts and recording -- you  
5 have watched recordings that have been received into  
6 evidence. Each of you was given a transcript of the  
7 recording to help you identify speakers and help you listen  
8 to the recording. However, bear in mind that the recording  
9 is the evidence, not the transcript. If you heard something  
10 different from what appeared in the transcript, what you  
11 heard is controlling.

12 For recordings that involve the translation of a  
13 foreign language, such as Khmer, you must accept the English  
14 translation as evidence.

15 Foreign language testimony. You have heard  
16 testimony of a witness who testified in the Khmer language.  
17 Witnesses who do not speak English, or are more proficient in  
18 another language testify through an official interpreter. It  
19 says here, although some of you may know the Khmer  
20 language -- I don't think we've asked you this. Do any -- is  
21 there anybody who actually knows some Khmer language, that  
22 you understand some words?

23 (No Response.)

24 THE COURT: Well, if you did, it is important that  
25 jurors consider the same evidence; therefore, you must accept

1 the interpreter's translation of the witness' testimony. You  
2 must disregard any different meaning.

3 You must not make assumptions about a witness or a  
4 party based solely on the fact that an interpreter was used.

5 Credibility of witnesses, in deciding this case you  
6 may have to decide which testimony to believe and which  
7 testimony not to believe. You may believe everything a  
8 witness says, part of it, or none of it.

9 In considering the testimony of any witness, you may  
10 take into account, one, the witness' opportunity and ability  
11 to see or hear or know the things testified to; two, the  
12 witness' memory; three, the witness's manner while  
13 testifying; four, the witness's interest in the outcome of  
14 the case, if any; five, the witness' bias or prejudice, if  
15 any; six, whether other evidence contradicted the witness'  
16 testimony; seven, the reasonableness of the witness'  
17 testimony in light of all the evidence; eight, the prior  
18 statements of the witness; and nine, any other factors that  
19 bear on believability.

20 Sometimes a witness may say something that is not  
21 consistent with something else he or she said. Sometimes  
22 different witnesses will give different versions of what  
23 happened. People often forget things or make mistakes in  
24 what they remember. Also, two people may see the same event,  
25 but remember it differently. You may consider these

1 differences, but do not decide the testimony is untrue just  
2 because it differs from other testimony.

3           However, if you decide that a witness has  
4 deliberately testified untruthfully about something  
5 important, you may choose not to believe everything that  
6 witness testified. However, on the other hand, if you think  
7 the witness testified untruthfully about some things, but  
8 told the truth about others, you may accept the part you  
9 think is true, and ignore the rest.

10           The weight of the evidence as to a fact does not  
11 necessarily depend on the number of witnesses who testify.  
12 What is important is how believable the witnesses are, and  
13 how much weight you think their testimony deserves.

14           Prior statements of a witness, some witnesses who  
15 testified in Court also made statements to others in the  
16 past. You may consider the consistency or the  
17 inconsistencies of these statements in deciding whether or  
18 not to believe a witness, and how much weight to give to the  
19 testimony of a witness.

20           Testimony of witnesses, compensation and benefits.  
21 You have heard testimony from some witnesses who received  
22 benefits or compensation from the government in connection  
23 with this case. For this reason, in evaluating the testimony  
24 of these witnesses, you should consider the extent to which  
25 or whether their testimony may have been influenced by the

1 compensation or benefits. You should examine the testimony  
2 of these witnesses with greater caution than that of other  
3 witnesses. It is for you to determine the weight to give  
4 such evidence.

5 Opinion evidence, expert witness, you have heard  
6 testimony from certain witnesses who testified to opinions  
7 and reasons for their opinions. The opinion testimony is  
8 allowed because of their education or experience of this  
9 witness. Such opinion testimony should be judged like any  
10 other testimony. You may accept it or reject it, and give it  
11 as much weight as you think it deserves, considering the  
12 witness' education and experience, the reasons given for the  
13 opinion, and all the other evidence in the case.

14 Statements made by a defendant, you have heard  
15 testimony that Mr. Johnson made certain statements to others.  
16 It is for you to decide, one, whether Mr. Johnson made the  
17 statement, and two, if so, how much weight to give to it. In  
18 making those decisions you should consider all of the  
19 evidence about the statement, including the circumstances  
20 under which Mr. Johnson may have made it.

21 Prior proceedings. You have heard testimony that  
22 Mr. Johnson was arrested in Cambodia and spent time in jail  
23 in Cambodia. You have also heard testimony about a court  
24 proceeding in Cambodia. You should not speculate as to the  
25 nature or outcome of the proceeding in Cambodia. What a

1 Cambodian Court did or did not do is not relevant to your  
2 deliberations. You should base your verdict only on the  
3 evidence you heard in this case.

4 Charts and summaries and transcripts not admitted  
5 into evidence, during the trial certain charts and summaries  
6 and transcripts were shown to you in order to help explain  
7 the evidence in the case. Some of these charts and summaries  
8 and transcripts were not admitted into evidence, and will not  
9 go into the jury room with you. They are not themselves  
10 evidence or proof of any facts.

11 If they do not correctly reflect the facts or  
12 figures shown by the evidence in the case, you should  
13 disregard these charts and summaries and determine the facts  
14 from the underlying evidence.

15 Use of notes, some of you have taken notes during  
16 the trial. Whether or not you took notes, you should rely on  
17 your own memory of what was said. Notes are only to assist  
18 your memory. You should not be overly influenced by your  
19 notes, or by the notes of your fellow jurors.

20 Consideration of punishment, the punishment provided  
21 by law for this crime is for the Court to decide. You may  
22 not consider punishment in deciding whether the government  
23 has proved its case against Mr. Johnson beyond a reasonable  
24 doubt.

25 Stipulations of fact, the parties have agreed to

1 certain facts that have been stated to you. Those facts are  
2 now conclusively established. The Court is instructing you  
3 that the following facts are true, and you will have these  
4 with you as part of the instructions.

5 Stipulation No. 1, on January 10, 2014, an APLE,  
6 A-P-L-E social worker and an APLE lawyer met with ES XXXXXXXX  
7 and SO XXXXXXXX at a shelter in Cambodia. The boys said that  
8 Sambo Heng, former staff member from Hope Transition Cambodia  
9 met them at their high school a week ago. Sambo said that he  
10 visited Daniel Johnson, who was in custody in Cambodia.  
11 Sambo said that Daniel was very thin and having a very  
12 difficult time, and Sambo felt pity for him.

13 Both ES XXXX and SO XXX said to the APLE  
14 members that their statements about the abuse, by Daniel  
15 Johnson, were not true. They did not want to lie to  
16 everybody and they did not want someone to be prosecuted  
17 because of a lie, and that they would change their  
18 statements.

19 APLE wrote a report regarding their statements on  
20 January 11, 2014, and provided the FBI with the report.

21 On January 6, 20 -- excuse me, on January 6, 2013,  
22 FBI Special Agent Jeff Yesensky spoke with the APLE employees  
23 regarding Daniel Johnson. The APLE employee did not have  
24 copies of the Cambodian National Police interview reports  
25 with LS XXXXX, VS XXXXXXXXXXXXXXXX, CC XXXXXX, SO XXXXXXXX and

1 ES XXXXXXXX, but had been briefed on the case. To the APLE  
2 employee's knowledge, none of the victims had disclosed that  
3 Daniel Johnson had taken explicit images of them.

4 MR. WEINERMAN: Judge, I think there's an error. I  
5 think both parties agree. The date should read on January 6,  
6 2014 when the --

7 THE COURT: All right. We will fix that.

8 MR. WEINERMAN: Same date. January 6, 2014, not  
9 2013.

10 MR. SWEET: That's correct, Your Honor.

11 THE COURT: We will make that correction.

12 Stipulation two, at all relevant times, including  
13 between November 1st, 2005, and December 9, 2013, Daniel  
14 Johnson's last known domestic residence was in the District  
15 of Oregon.

16 Stipulation No. 3. 1, Mr. Johnson's TECS records,  
17 airline records, passport, and US and Cambodian immigration  
18 records, including records regarding immigration status,  
19 travel, and entry and exit data, and the information  
20 contained in those records are true and accurate.

21 2, Mr. Johnson became a United States citizen at  
22 birth, and he has remained a United States citizen,  
23 continuously and without interruption from the time of his  
24 birth to present.

25 3, Mr. Johnson traveled in interstate and foreign



1 commerce between the United States and Cambodia, between, on,  
2 or about the following dates: November 28, 2005, departing  
3 the US, to December 6, 2005, arriving in Cambodia;  
4 January 11, 2007, departing the US, January 12th, 2007  
5 arriving in Cambodia; October 10, 2008, departing the US,  
6 October 11, 2008, arriving in Cambodia; October 22nd, 2009,  
7 departing the US, October 23rd, 2009, arriving in Cambodia;  
8 June 8, 2010, departing US, June 10, 2010, arriving in  
9 Cambodia; January 18, 2011, departing the US, January 19,  
10 2011, arriving in Cambodia.

11 4, Mr. Johnson was present within the District of  
12 Oregon and then traveled in interstate and foreign commerce  
13 between the United States and Cambodia on or about the  
14 following dates: June 21st, 2011, in Oregon, July 5, 2011,  
15 departed the US, July 7, 2011, arrived in Cambodia;  
16 December 1st, 2011, in Oregon, December 20th, 2011 departed  
17 the US, December 22nd, 2011, arrived in Cambodia; July 24,  
18 2012, in Oregon, August 24, 2012, departed the US, August 27,  
19 2012, arrived in Cambodia; November 19, 2012, in Oregon,  
20 December 5, 2012, departed the US, December 7, 2012, arrived  
21 in Cambodia; May 28, 2013, in Oregon, May 29, 2013, departed  
22 the US, May 30, 2013, arrived in Cambodia.

23 Stipulation No. 4, in accordance with Title 28,  
24 Section 1821 of the United States Code, any fact witnesses  
25 for either party must be paid a \$40 witness fee for each day

1 they attend the trial, and for each day necessarily occupied  
2 in going to and returning from the place of attendance. That  
3 same Federal law requires that, in addition to travel-related  
4 expenses, fact witnesses must be paid a subsistence  
5 allowance. The subsistence allowance paid to any fact  
6 witness in the case will be the current Federal per diem rate  
7 for Eugene, Oregon of \$59 per day.

8 Defendant's decision not to testify, a defendant in  
9 a criminal case has a Constitutional right not to testify.  
10 In arriving at your verdict, the law prohibits you from  
11 considering in any manner that Mr. Johnson did not testify.

12 Presumption of innocence, burden of proof. The  
13 indictment is not evidence. Mr. Johnson has pleaded not  
14 guilty to the charges. He's presumed to be innocent unless  
15 and until the government proves his guilt beyond a reasonable  
16 doubt. Mr. Johnson does not have to testify or present any  
17 evidence. He does not have to prove innocence. The  
18 government has the burden of proving every element of the  
19 charge beyond a reasonable doubt.

20 Beyond a reasonable doubt, proof beyond a reasonable  
21 doubt is proof that leaves you firmly convinced that  
22 Mr. Johnson is guilty. It is not required that the  
23 government prove guilt beyond all possible doubt.

24 A reasonable doubt is based on reason and  
25 commonsense, and is not based purely on speculation. It may

1 arise from a careful and impartial consideration of all the  
2 evidence, or from a lack of evidence.

3 If, after careful and impartial consideration of all  
4 the evidence, you are not convinced beyond a reasonable doubt  
5 that Mr. Johnson is guilty, it is your duty to find him not  
6 guilty.

7 On the other hand, if, after careful and impartial  
8 consideration of all the evidence in the case, you are  
9 convinced beyond a reasonable doubt that Mr. Johnson is  
10 guilty, it is your duty to find him guilty.

11 Activities not charged, you are here only to  
12 determine whether Mr. Johnson is guilty or not guilty of the  
13 charges in the indictment. He is not on trial for conduct or  
14 offenses not charged in the indictment.

15 Separate consideration of multiple counts, single  
16 defendant. A separate crime is charged against Mr. Johnson  
17 in each count. You must decide each count separately. Your  
18 verdict on one count should not control your verdict on any  
19 other count.

20 I am now going to go through the different counts of  
21 the indictment, and the elements that are required legally to  
22 be proven by the government beyond a reasonable doubt.

23 First, Counts 1 through 6. Mr. Johnson is charged  
24 in Counts 1 through 6 of the indictment with traveling in  
25 foreign commerce and engaging in illicit sexual conduct in a

1 foreign place in violation of Section 2423(c) of Title 18 of  
2 the United States Code. In order for him to be found guilty  
3 of these charges the government must prove each of the  
4 following elements beyond a reasonable doubt.

5 One, that Mr. Johnson is a United States citizen;  
6 two, that Mr. Johnson traveled in foreign commerce from the  
7 United States to Cambodia; and three, Mr. Johnson engaged in  
8 illicit sexual conduct with the victims referenced in that  
9 count of the indictment, and it will say, "please see the  
10 chart below."

11 And to clarify, Mr. Johnson engaged in illicit  
12 sexual conduct with the victim referenced in that count in  
13 the indictment, in Cambodia.

14 Now, in the instructions you will see Count 1  
15 through 6, the same criminal charge, but it involves six  
16 different minor alleged victims. So this chart puts the  
17 names and the dates for each of the counts of the indictment.

18 So you will see Count 1 says Minor Victim No. 1,  
19 name BT XXXXXXXXXX. Next you will see BT XXXXXXXX, so that you  
20 know specifically which of the alleged victims we're talking  
21 about.

22 A person born in the United States is a United  
23 States citizen at birth. A United States passport issued by  
24 the Secretary of State to a citizen of the United States is  
25 proof of United States citizenship for the period during

1 which the passport is valid.

2 Lack of consent is not an element of the offense.

3 The government does not have to prove that the victim did not  
4 consent to the illicit sexual conduct, nor is the government  
5 required to show that the victim resisted.

6 The government does not have to prove that the  
7 illicit sexual conduct violated the laws of the foreign  
8 country where it occurred.

9 For this offense, the government does not have to  
10 prove that Mr. Johnson intended to engage in illicit sexual  
11 conduct at the time he departed the United States.

12 Count 7 of the indictment, Mr. Johnson is charged in  
13 Count 7 of the indictment with traveling in foreign commerce  
14 for the purpose of engaging in any illicit sexual conduct  
15 with a person under 18 years of age in violation of Section  
16 2423(b) of Title 18 of the United States Code. In order for  
17 Mr. Johnson to be found guilty of this charge the government  
18 must prove each of the following elements beyond a reasonable  
19 doubt.

20 One, that Mr. Johnson is a United States citizen;  
21 two, that Mr. Johnson traveled in foreign commerce from the  
22 United States on or about June 23rd, 2011, and May 29th,  
23 2013; three, Mr. Johnson traveled for the purpose of engaging  
24 in illicit sexual conduct.

25 Again, a person born in the United States is a

1 United States citizen at birth. A United States passport  
2 issued by the Secretary of State to a citizen of the United  
3 States is proof of a United States citizenship for the period  
4 during which the passport is valid.

5 For this offense, the government does not have to  
6 prove that Mr. Johnson actually engaged in illicit sexual  
7 conduct, but must prove that he travelled for the purpose of  
8 engaging in such conduct. In doing so, the government need  
9 not prove that Mr. Johnson traveled in foreign commerce for  
10 the sole and exclusive purpose of engaging in illicit sexual  
11 conduct. A person may have different purposes or motives for  
12 travel, and each may prompt in varying degrees the act of  
13 making the journey.

14 For this count, the government must prove beyond a  
15 reasonable doubt that a dominant, significant, or motivating  
16 purpose of Mr. Johnson's travel in foreign commerce was to  
17 engage in illicit sexual conduct. In other words, the  
18 government must prove the sexual act was not merely  
19 incidental to travel. The government does not have to prove  
20 the illicit sexual conduct is illegal in the country to which  
21 Mr. Johnson traveled.

22 Count 8 of the indictment. Mr. Johnson is charged  
23 in Count 8 of traveling across a state line with the intent  
24 to engage in a sexual act with a person who was less than  
25 12 years old.

1 In order for you to find him guilty of this charge  
2 the government must prove each of the following elements  
3 beyond a reasonable doubt: One, Mr. Johnson traveled across  
4 a state line between on or about June 23rd, 2011, and May 29,  
5 2013; and two, Mr. Johnson traveled with the intent to engage  
6 in a sexual act with a person who is less than 12 years old.

7 Again, the government does not have to prove that  
8 Mr. Johnson actually engaged in a sexual act with a person  
9 under 12, but must prove that he traveled with the intent to  
10 engage in such conduct.

11 In doing so, the government need not prove that  
12 Mr. Johnson traveled across a state line for the sole and  
13 exclusive purpose of engaging in a sexual act with a person  
14 under 12. A person may have different purposes or motives  
15 for travel, and each may prompt in varying degrees the act of  
16 making the journey.

17 For this Count, the government must prove beyond a  
18 reasonable doubt that a dominant, significant, or motivating  
19 purpose of Mr. Johnson's travel across a state line was to  
20 engage in a sexual act with a person under 12. In other  
21 words, the government must prove the sexual act was not  
22 merely incidental to the travel.

23 Some definitions. The term "illicit sexual conduct"  
24 means knowingly engaging in a commercial sex act with a  
25 person, the victim, who is under 18 years of age; the

1 government does not have to prove the defendant knew the  
2 victim was under the age of 18.

3 Or illicit sexual conduct means knowingly causing a  
4 person who is under 18 years of age to engage in a sexual  
5 act, one, by using force against that person, or two, by  
6 threatening or placing that person in fear.

7 Or the term illicit sexual conduct means knowingly  
8 engaging in a sexual act with a person, the victim, who has  
9 attained the age of 12 years, but has not attained the age of  
10 16 years, and is at least four years younger than the  
11 defendant; the government does not have to prove that the  
12 defendant knew the age of the victim, nor does it have to  
13 prove the defendant knew the requisite age difference  
14 existed.

15 Illicit sexual conduct also means knowingly engaging  
16 in a sexual act with a person, the victim, who is under  
17 12 years of age; the government does not have to prove the  
18 defendant knew the victim was under the age of 12.

19 The term "sexual act" means contact between the  
20 penis and the anus, involving penetration, however slight, or  
21 contact between the mouth and the penis, or the mouth and the  
22 anus, or penetration, however slight, of the anal opening by  
23 a hand, finger, or any object, with the attempt to abuse,  
24 humiliate, harass, or degrade the person, or to arouse or  
25 gratify the sexual desire of the defendant or any other



1 person.

2 Or an intentional touching, not through the  
3 clothing, of the genitalia of the person younger than  
4 16 years old, with the intent to abuse, humiliate, harass, or  
5 degrade the person, or to arouse or gratify the sexual desire  
6 of the defendant, or any other person.

7 The term "commercial sex act" means any sex act, on  
8 account of which anything of value is given or received by  
9 any person.

10 The term "travel in foreign commerce" means travel  
11 between any part of the United States and a foreign country.

12 On or about, the indictment charges the offenses  
13 alleged occurred on or about a certain date. Although it is  
14 necessary for the government to prove beyond a reasonable  
15 doubt that the offense was committed on a date reasonably  
16 near the date alleged in the indictment, it is not necessary  
17 for the government to prove that the offense was committed  
18 precisely on the date charged.

19 Venue, Counts 1 through 6, for the offenses charged  
20 in Counts 1 through 6, the government must prove it is more  
21 likely true than not that Mr. Johnson was first brought to or  
22 arrested in the District of Oregon, or that his last known  
23 residence was in the District of Oregon. You decide these  
24 facts by considering all the evidence and deciding what  
25 evidence is more believable. This is a lower standard of

1 proof than beyond a reasonable doubt. The requirement of  
2 proof beyond a reasonable doubt applies to all other issues  
3 in this case.

4 Counts 7 and 8, for the offenses charged in Counts 7  
5 and 8, the government must prove it is more likely true than  
6 not true that the offense was begun, continued, or completed  
7 in the District of Oregon. You decide these facts by  
8 considering all the evidence and deciding what evidence is  
9 more believable. This is a lower standard of proof than  
10 proof beyond a reasonable doubt. The requirement of proof  
11 beyond a reasonable doubt applies to all other issues in this  
12 case.

13 The word "knowingly," an act is done knowingly if  
14 the defendant is aware of the act and does not act through  
15 ignorance, mistake, or accident. The government is not  
16 required to prove the defendant knew that his acts or  
17 omissions were unlawful. You may consider evidence of the  
18 defendant's words, acts, or omissions, along with all other  
19 evidence, in deciding whether the defendant acted knowingly.

20 Unanimous agreement, with regard to Count 7 the  
21 parties have stipulated that during the time frame set forth  
22 in Count 7, Mr. Johnson took five trips from the United  
23 States to Cambodia. While you may consider all of these  
24 trips in your deliberations, you may only find Mr. Johnson  
25 guilty of Count 7 if you all unanimously agree beyond a

1 reasonable doubt, one, that Mr. Johnson possessed the  
2 requisite intent for a specified United States to Cambodia  
3 trip, and two, that Mr. Johnson was a US citizen at the time  
4 of the trip. You must unanimously agree on at least one  
5 trip.

6 In other words, six of you can't agree that  
7 something occurred during trip two, and 6 of you say, no, but  
8 we think it occurred during trip three. 12 of you have to  
9 agree on a single trip.

10 Count 8, the parties have stipulated that during the  
11 time frame set forth in Count 8, Mr. Johnson took five trips  
12 from the United States, to Cambodia. While you may consider  
13 all of these trips in your deliberations, you may only find  
14 Mr. Johnson guilty of Count 8 if you all unanimously agree  
15 beyond a reasonable doubt as to a specific trip in which he  
16 crossed a state line with the requisite intent. You must  
17 unanimously agree on at least one trip.

18 You have a verdict form that has been prepared for  
19 you. After you reach a unanimous agreement on a verdict,  
20 your presiding juror, foreperson, should complete the form  
21 according to deliberations and sign it and date it, and  
22 advise the clerk that you are ready to return to the  
23 courtroom.

24 I will give you further instructions about  
25 deliberations, brief instructions, after the closing

1 statements. Because the attorneys will likely reference the  
2 verdict form, I think what we will do is give you a copy of  
3 the verdict form to have with you to reference during the  
4 closing statements, so that the attorneys can express to you  
5 their arguments about how you should go about filling out the  
6 verdict form. So you will have a copy during closing  
7 statements, and then of course you will take a copy back with  
8 you.

9 So our plan now is to break for lunch until 12:30.  
10 At 12:30 the government will begin their closing statement.  
11 Remember, the government has the complete burden of proof  
12 here. So they will go first, followed by the defense, and  
13 because the government has the burden of proof, they will  
14 have an opportunity to provide rebuttal argument.

15 We will then say goodbye to our alternate jurors,  
16 and the 12 jurors will be able to begin their deliberations.  
17 So with that, we will break for lunch and see you back here  
18 at 12:30.

19 (JURY OUT.)

20 THE COURT: Please be seated. Mr. Weinerman, since  
21 I just gave the instructions and we don't have the jury  
22 deliberating until later this afternoon, now is as good a  
23 time as any to make any exceptions to the record.

24 MR. WEINERMAN: Yes, Judge, and I am going to  
25 mention a few. That doesn't mean we don't continue our

1 exception to the remainder.

2 We still believe the Court should identify an  
3 alleged victim in Count 7 and 8. The Court has done so in  
4 Counts 1 through 6, but not 7 and 8. And here I know the  
5 Court has redened that, but we wanted to renew that request.

6 And we previously submitted our instruction on  
7 Counts 1 through 6, the elements of the offense. I think we  
8 did at the pretrial conference. I don't have the document in  
9 front of me, and the Court denied. But we're renewing that  
10 request to renew the instruction on Counts 1 through 6.

11 THE COURT: Thank you.

12 For the record, any exceptions from the government?

13 MR. SWEET: No exceptions. Just one error that I  
14 believe we made on page 27. There's, for Count 1 there's an  
15 extra zero in November 12, 2008. It's 20,008 right now.  
16 That's the only thing. Thank you.

17 THE COURT: We will fix that. There are a couple of  
18 other minor typos that we will go through.

19 See everybody back at 12:30, and if you need to stay  
20 and set up for your closing statements, please do so.

21 (Lunch recess taken from 11:25 a.m.  
22 to 12:39 p.m.)

23 THE COURT: All right. Ready to go? Bring the jury  
24 in. This would be a good time to remind people to turn their  
25 phones down or off. I am usually the worst when it comes to

1 that.

2 (JURY IN.)

3 THE COURT: Please be seated. Mr. Allnatt is  
4 handing out a copy of the verdict form so you have some sense  
5 of the questions you are going to be asked to answer. With  
6 that, we will hear closing summation from the government.

7 Mr. Sinha.

8  
9 GOVERNMENT'S CLOSING ARGUMENT

10 MR. SINHA: Control and abuse. At the beginning of  
11 this trial, the United States, Ms. Britsch, stood up here and  
12 told you that this is a case about control and abuse. And  
13 over the last two-and-a-half weeks of testimony, what seemed  
14 like a lifetime, you have heard testimony from 13 Cambodian  
15 witnesses and 10 Americans. And together, they have painted  
16 a portrait of control and abuse.

17 They have painted a harrowing and horrifying  
18 portrait of what life was like for the boys who lived at the  
19 Hope Transition Center under the control of Daniel Johnson.  
20 That portrait has included being in fear, being threatened,  
21 being hit. That portrait has included being systematically  
22 and repeatedly sexually abused by Daniel Johnson whenever he  
23 wanted.

24 Now, you have heard extensive testimony from boy  
25 after boy after boy after boy after boy about the things that

1 Daniel Johnson did to them, and the things that Daniel  
2 Johnson attempted to do to them. But I want to focus your  
3 attention on six of them today. These are the six children  
4 whose abuse underlies Count 1 through 6 of the indictment.  
5 These are the six children who are going to ask you to  
6 consider the evidence about their abuse.

7 The first, underlying Count 1 is BT XX. Two, Count  
8 2 is ES XXX, or sometimes called "ES XXX." 3, Count 3 is  
9 LS XXXXX. 4, Count 4 is SO XXX. 5, Count 5 is VS XXXX, or  
10 VS XXXX. And 6, Count 6 is CC X, or CC XXXXXX.

11 Now, ladies and gentlemen, you sat through this  
12 trial and you have watched these kids testify. And though  
13 they spoke through interpreters, you don't have to speak a  
14 foreign language to understand what they were telling you.  
15 You don't have to speak Khmer to hear the pain in their  
16 voice, to see the shame on their faces, to see the scars that  
17 they still bear from the things that Daniel Johnson did to  
18 them.

19 Ladies and gentlemen, you don't have to speak Khmer  
20 to see the tears that some of them had. And when you saw  
21 that, you can make a determination that when they told you  
22 about the ways in which Daniel Johnson repeatedly and  
23 systematically sexually abused them, they were speaking from  
24 the heart.

25 Now, you also heard from several other boys who

1 lived at Hope Transition Center, boys who Daniel Johnson also  
2 controlled, and either attempted or succeeded in sexually  
3 abusing. Now, those are boys who told you about their  
4 experiences themselves, but they also told you what they saw.  
5 And they provided you with important context and  
6 corroboration of the things that Mr. Johnson did to those six  
7 victims.

8           Some of the details that those boys told you are  
9 difficult to forget. You may recall SESX talking to you  
10 about how Mr. Johnson attempted to touch his genitals  
11 whenever he gave him a massage. And SESX expressed his love  
12 for Mr. Johnson, saying if he keeps continuing to do that to  
13 me, I am going to stop giving him a massage.

14           You heard RT XX talk about Mr. Johnson trying to  
15 grab his penis, and from LT XXXXXXXX who actually left the  
16 orphanage and had to leave his little brother behind, because  
17 Mr. Johnson repeatedly grabbed his penis.

18           You may also remember LT XXXXXXXX telling you what  
19 LS X told him about Mr. Johnson. In strikingly similar  
20 language to what LS X told you from the stand, LS X told  
21 LT XXXXXXXX quote, "He sucked my dick."

22           You heard from SS XX, and at first how SS XX -- how  
23 Mr. Johnson tried to grab SS XX's genitals, and second, how  
24 SO XXX disclosed the abuse that Mr. Johnson had put upon him,  
25 and the sexual abuse that Mr. Johnson had committed against



1 S0 XXX, disclosed it to SS XX. But perhaps most strikingly  
2 from SS XX, you heard his testimony that was corroborated by  
3 SESX.

4 That at night Mr. Johnson would come into the room  
5 where the boys were sleeping with a flashlight, and he would  
6 walk around and choose which of the boys he was going to pick  
7 up and carry into his bedroom, and that he often chose  
8 S0 XXX, LT XXXXXXXX, and ES XXX. As SS XX put it, at times  
9 they were asleep and he came and just took them.

10 In addition to the boys at Hope Transition Center,  
11 you also heard from a number of volunteers. First, you heard  
12 from Celena Ocen who told a story of volunteering and being  
13 there on the morning of Mr. Johnson's arrest.

14 She told you that she went to worship services at  
15 5:00 a.m., and after she got done and took a shower, she was  
16 outside Mr. Johnson's bedroom for about four hours. No one  
17 came in, and no one went out. And in spite of her repeated  
18 knocking at the door, Mr. Johnson didn't answer.

19 Celena then told you she saw a boy emerge from that  
20 room looking disheveled, I believe she said looking  
21 intoxicated. And that Mr. Johnson came out later tucking in  
22 his shirt.

23 You also heard from Kelby and Lindsay Alderson.  
24 Kelby and Lindsay told you about the times that S0 XXX and  
25 CC X had told them about Mr. Johnson's sexual abuse of them.

1 But Lindsay sat up here, and with tears welling in her eyes,  
2 recounted to you how SO XXX told her that one time he  
3 pretended to be asleep while another boy was being abused so  
4 that Mr. Johnson wouldn't abuse him.

5 Ladies and gentlemen, this is a difficult case to  
6 serve on. I have little doubt that you have heard things you  
7 never wanted to hear, and we have asked you to consider in  
8 depth things that I suspect you never want to think about.  
9 And frankly, I have no illusion about the cost of your  
10 service on this jury to you. The sleepless nights it may  
11 have caused, the sleepless nights it may cause you.

12 But the United States can't apologize for the  
13 evidence you have heard. The United States didn't create  
14 this evidence. Mr. Johnson created the evidence you heard,  
15 and it's evidence of his control and abuse of these children.

16 So let's talk about that evidence, and let's talk  
17 about how it fits into the charges against Mr. Johnson.  
18 While I talk I want to remind you of three things: First and  
19 foremost, what I tell you, what Ms. Maxfield tells you, or  
20 what Mr. Sweet tells you is not evidence.

21 The evidence is the testimony you heard, what you  
22 saw with your eyes, the exhibits that have been admitted, and  
23 the agreed-upon facts. I also want to tell you that while  
24 we're going to talk about the law, and I am going to try to  
25 give you an insight into how the government views the case,

1 what I tell you is not the law. If there's any conflict,  
2 refer to the jury instructions.

3 And finally, I want to remind you that at all points  
4 the United States bears the burden of proving each element of  
5 these crimes. With those three things in mind, let's talk  
6 about the evidence. The evidence has shown that Mr. Johnson  
7 repeatedly and systematically sexually abused multiple boys  
8 under the age of 16, and in one case, under the age of 12,  
9 who lived at Hope Transition Center. These boys, who were as  
10 young as seven years old when Mr. Johnson started molesting  
11 them, have told you of the fear they lived in.

12 Not only has VS XXXX said, the fear that he would  
13 continue to violate them, but also the fear that the  
14 orphanage would close if they said anything, that they  
15 wouldn't be able to seek their education, that their source  
16 of food and shelter would go away, that Mr. Johnson would hit  
17 them.

18 And they told you, as ES XXX said, that it really  
19 made little difference if they tried to resist, he would do  
20 it anyway. They also told you about the commercial nature of  
21 Mr. Johnson's sexual abuse. They told you that after the  
22 abuse, in many instances, Mr. Johnson gave them money, or  
23 gave them cookies. They knew that they were living in the  
24 orphanage and receiving the food and shelter and schooling  
25 that they were receiving was a condition upon them not

1 speaking out to the police. They told you how reliant they  
2 were on Mr. Johnson. And how sometimes they would get gifts  
3 if they submitted to the abuse.

4 Now, for all of this, Daniel Johnson stands accused  
5 of eight Federal crimes. So let's talk about them in order.  
6 The first six crimes are all charged under the same statute,  
7 so they all have the same elements. So I am going to talk  
8 about them together, and then we will break them up.

9 Counts 1 through 6 of the indictment charge  
10 Mr. Johnson with traveling in foreign commerce and engaging  
11 in illicit sexual conduct. So the first things to consider  
12 in Counts 1 through 6 is whether there is venue for these  
13 charges, and I think this is an easy question for you. There  
14 are two situations in which each of those counts can be  
15 venued in the District of Oregon.

16 One is that Mr. Johnson was first brought or  
17 arrested into the District of Oregon, and two, is that his  
18 last known residence was in the District of Oregon. So in  
19 terms of him first being brought, you have Exhibit 221 and  
20 you have testimony from Special Agent Forrest Schoening who  
21 told you that Mr. Johnson was first brought and touched down  
22 in America in Portland, Oregon.

23 That's borne out by 221, which shows his itinerary  
24 going from Phnom Penh to Seoul, Seoul to Vancouver, Canada,  
25 and then into Portland. So that aspect of the venue would be

1 sufficient.

2 But even if you didn't find that aspect of venue,  
3 you have the second option, which is that Mr. Johnson's last  
4 known residence was in the district of Oregon. The  
5 stipulation states that at all relevant times, Mr. Johnson's  
6 last known residence was in the District of Oregon.

7 So let's go to the next element. Once you have  
8 established venue, you have to find three elements in order  
9 to find Mr. Johnson guilty of any of these charges. First  
10 element is that Mr. Johnson was a United States citizen.  
11 This also is an easy lift. Mr. Johnson and the United States  
12 have agreed that Mr. Johnson has, his entire life,  
13 continuously been a United States citizen. Those are  
14 stipulated facts.

15 You could also, if you wanted to, rely on  
16 Mr. Johnson's passports, which are admitted into evidence,  
17 Mr. Johnson's passport application and other evidence. But  
18 you don't need to.

19 The second element is that Mr. Johnson traveled in  
20 foreign commerce from the United States to Cambodia. Now you  
21 have an instruction on what that means, but this also is a  
22 pretty easy lift for you, because the parties have stipulated  
23 that Mr. Johnson traveled in interstate and foreign commerce  
24 between the United States and Cambodia, and then it gives you  
25 the dates on which he traveled. This is in part three, and I

1 believe there's a second part, as well.

2 But in total, you are going to be looking at ten  
3 trips in which the parties have agreed that Mr. Johnson  
4 traveled between the United States and Cambodia.

5 Turning to the third element, the third element is  
6 that Mr. Johnson engaged in illicit sexual conduct with the  
7 victim referenced in the count of the indictment. And like I  
8 say, we will go through each of these counts individually.  
9 So what does illicit sexual conduct mean? Well, it's got a  
10 few definitions. You could find any of these in finding that  
11 there's illicit sexual conduct.

12 So the first one is that Mr. Johnson knowingly  
13 engaged in a commercial sex act with someone under the age of  
14 18 years. So I will note for you that a commercial sex act  
15 means any act on account of which anything of value is given,  
16 or received by the person. So that doesn't mean that is  
17 confined to instances in which Mr. Johnson gave someone  
18 money. It could be he gave them, for instance, food or gifts  
19 or he provided something to them, such as shelter or housing  
20 or schooling.

21 Alternatively, you could find that Mr. Johnson  
22 engaged in illicit sexual conduct by finding he knowingly  
23 caused a person who is under the age of 18 to engage in a sex  
24 act by either using force against that person, or by  
25 threatening or placing that person in fear. Here again,

1 either one works, and there's been testimony, I believe, with  
2 regards to both.

3           There are two other ways to find illicit sexual  
4 conduct. One is when there is a gap in age between the  
5 person who is perpetrating the crime and the victim.  
6 Actually, that one involves a victim who is under the age of  
7 16 years old, but is over the age of 12, where the  
8 defendant -- excuse me, where the perpetrator is over four  
9 years older. So here, you have victims who are under the age  
10 of 16, but over the age of 12, and as has been testified to,  
11 Mr. Johnson is, as we sit here, 40 years old.

12           So you can look at the dates on which the kids were  
13 born, and look at the dates in the indictment, and you can  
14 determine that Mr. Johnson was never within four years of  
15 these kids.

16           Finally, for victims who were under 12 years old,  
17 you can simply find, regardless of what the gap in age  
18 between the victim and the perpetrator is, that the victim  
19 was under 12 years old, and that Mr. Johnson knowingly  
20 engaged in a sex act with this person.

21           So let's talk about what constitutes a sex act.  
22 There are several things that constitute a sex act. First,  
23 contact between the penis and anus, involving penetration,  
24 however slight. You have heard testimony about anal  
25 penetration by Mr. Johnson of his victims. And several of

1    them talked to you about how it was painful.  A couple of  
2    them talked about how he used lubricant.

3               Contact between the mouth and the penis, or the  
4    mouth and the anus.  Here again, you have heard testimony  
5    over and over and over again about Mr. Johnson either  
6    performing oral sex on these children, making the children  
7    perform oral sex on him, attempting to make them perform oral  
8    sex on him, or some variation of those three things.

9               Next, penetration, however slight, of another  
10   person's anal opening by hand, finger, or any object with an  
11   intent to abuse, humiliate, harass, degrade the person.  Or  
12   an intent -- and this is the one that seems applicable here,  
13   to arouse or gratify the sexual desire of the defendant, or  
14   of any person.  So if you find there is penetration, however  
15   slight, of the anus, and you find that Mr. Johnson was doing  
16   so to fulfill his own sexual desire or to gratify or arouse  
17   his own sexual desire, that's illicit sexual conduct.

18              Finally, the intentional touching, not through the  
19   clothing, of the genitalia of a person younger than 16 years  
20   old.  Again, with the same intent.  And the one I want to  
21   draw your attention to is at the end, with the intent to  
22   arouse or gratify the sexual desire of the defendant, or any  
23   other person.

24              Now, here in this case you have heard testimony over  
25   and over and over again about Mr. Johnson touching these



1 boys' penises, and about Mr. Johnson making them touch his  
2 penis. And what you have heard asked almost always after  
3 that testimony was, was that skin on skin contact. Was that  
4 over your clothes or under the clothes? And the boys in the  
5 charged counts have testified to you that that was skin on  
6 skin contact. That was not through the clothing. So finding  
7 that, you can find illicit sexual conduct, sexual contact,  
8 and you can find a sex act.

9 So let's break up the counts and talk about them  
10 individually. Count 1 involves BT XXXXXXXXX, who you have  
11 heard referred to throughout sometimes as BT XX. BT XX was  
12 born in 1991. As he testified, Mr. Johnson began abusing him  
13 when BT XX was 14 or 15 years old. And that abuse continued  
14 at Hope Transition Center at three different locations until  
15 BT XX was almost 18 years old.

16 BT XX told you that Mr. Johnson sexually abused him  
17 in a variety of ways 19 to 22 times. He told you that Daniel  
18 Johnson provided him with money for BT XX's sick dad, and for  
19 BT XX's schooling. BT XX told you that he was afraid during  
20 the abuse, and that Daniel Johnson would later apologize to  
21 him, cite scripture seeking forgiveness, and said he was  
22 abusing BT XX because he had been abused. Daniel Johnson  
23 reminded BT XX that Daniel Johnson knew people in high  
24 places.

25 Now, the illicit sexual conduct that Daniel Johnson

1 engaged in with BT XX included skin on skin contact, between  
2 Mr. Johnson and BT XX's penises. Oral sex, BT XX told you  
3 that Daniel Johnson performed oral sex on him many times,  
4 attempted to make BT XX perform oral sex on Mr. Johnson, and  
5 attempted anal sex where Daniel Johnson put lubricant on  
6 BT XX's anus and attempted to have anal sex with him. He  
7 eventually gave up, and as BT XX told you, he then tried to  
8 put his penis in BT XX's mouth.

9 BT XX told you in describing this event, "So he  
10 sucked me in that house, and then after he tried to -- and  
11 then after that, he tried to put his penis in my butt. But I  
12 tried to avoid. I tried to stop him from doing that. Then  
13 after that, he also tried to put it in my mouth again."

14 Count 2, Count 2 involves ES XXXXXXXX, who you have  
15 heard referred to as both ES XXX and "ES XXX." ES XXX was  
16 born in 1997, and he was 13 years old when he moved to Hope  
17 Transition Center. He lived there from 2009 until the date  
18 of Daniel's arrest on May 9, 2013.

19 Though ES XXX told you that he was abused less than  
20 three times per week during this period, he told you that the  
21 abuse happened pretty much the entire time he lived there.  
22 It started almost immediately after he got there, and it only  
23 ended a couple of weeks before Daniel was arrested after he  
24 told Pastor Sopheak. ES XXX talked to you about how he tried  
25 to resist and how he couldn't try to resist more.

1           And he told you a couple things. He said, "I mean,  
2 we had done this since we were young, so even when you  
3 refused it didn't do you any good. Why continue to refuse?"  
4 And then the question was asked, "What happened when you  
5 refused?" And ES XXX's answer was, "He continued to do it.  
6 Like yanking on your arms or shoulders."

7           Now, ES XXX talked to you about a variety of abuse.  
8 He talked to you about Daniel Johnson touching his penis,  
9 skin on skin. He talked to you about Daniel Johnson making  
10 him touch Daniel Johnson's penis. He talked to you about  
11 Daniel Johnson performing oral sex on him, and he talked to  
12 you about Daniel Johnson touching his penis to ES XXX's  
13 mouth.

14           ES XXX also talked to you about Daniel Johnson's  
15 attempted anal sex with him. And he said, as others said,  
16 that it was, quote, painful. And in explaining why it wasn't  
17 possible for Daniel Johnson to have anal sex with him, he  
18 said it was impossible because he was an adult and I was a  
19 child.

20           Count 3, Count 3 involves LS XXXXX. He's largely  
21 been referred to as LS X, but occasionally LS X. LS X lived  
22 at Hope Transition Center from 2009 until the date of  
23 Daniel's arrest in 2013. LS X told you he was born in 2002.  
24 So he was seven years old when he moved to Hope Transition  
25 Center. And he lived there from the time he was seven until

1 11, when Daniel was arrested.

2 LS X told you that Daniel abused him three or four  
3 times a week, the entire time he was at Hope Transition  
4 Center, with the exception of about two weeks from his  
5 arrival date, and two to three weeks before Daniel's arrest  
6 on December 9th.

7 So the entire time that LS X was there, Daniel  
8 Johnson was sexually abusing him. And LS X's age during that  
9 time was age 7 to 11 years old. LS X told you that among the  
10 things that Daniel Johnson did to him was Daniel touched and  
11 masturbated LS X's penis. Daniel made LS X touch and  
12 masturbate Daniel's penis. Daniel performed oral sex on  
13 LS X, and tried to make LS X perform oral sex on him.

14 LS X told you about the, quote, countless times that  
15 Daniel's penis came in contact with LS X's buttocks. And he  
16 told you about one instance in which Daniel Johnson tried to  
17 anally penetrate him, but ultimately gave up. LS X told you  
18 about that time, and he told you how painful it was for him.

19 LS X also told you that during this period, Daniel  
20 Johnson, while touching him, would also touch himself. And  
21 LS X gave you a series of details that someone that age  
22 usually wouldn't give about Daniel Johnson ejaculating on  
23 him, ejaculating on a mattress, ejaculating on Daniel  
24 Johnson's own stomach while these things were happening.

25 Count 4, Count 4 involves SO XXXXXXXX. You have

1 heard him referred to as S0 XXX. S0 XXX was between the ages  
2 of 12 and 16 years old during the time he lived at Hope  
3 Transition Center and was being abused by Daniel Johnson. He  
4 told you that Daniel Johnson sexually abused him two to three  
5 times per month. That the abuse lasted for a span of two to  
6 three years, and that he was abused by Daniel Johnson at all  
7 three Hope Transition Center locations. S0 XXX told you that  
8 right after the abuse, Daniel gave S0 XXX money. He gave him  
9 ice cream, gave him candy, he gave him cookies while S0 XXX  
10 was still in Daniel's bedroom.

11 S0 XXX told you that Daniel Johnson slapped him and  
12 hit him with a belt, and that Daniel Johnson threatened to  
13 call the police on him. Daniel Johnson abused S0 XXX in a  
14 variety of ways similar to the other boys.

15 Daniel Johnson touched S0 XXX's penis. S0 XXX told  
16 you he ejaculated. Daniel Johnson performed oral sex on  
17 S0 XXX, and he attempted, like others, to have anal sex with  
18 S0 XXX. S0 XXX told you that he avoided it, that he tried to  
19 avoid it by twisting his body away from Daniel, but that it  
20 was ultimately painful.

21 S0 XXX also told you why he didn't come forward with  
22 the disclosure of the abuse. He said of Daniel Johnson, "I  
23 also feel sorry for him and I wanted him to come out and I  
24 wanted him -- and he wanted to. Well, he helped a lot of  
25 other children, and I want him to continue to help children.

1 And that's why I couldn't tell the truth."

2 SO XXX and others talked about the very mixed  
3 feelings they had about Daniel. On the one hand, he provided  
4 them with their sole source of food and shelter and  
5 schooling. And on the other hand, as they told you, time and  
6 time again, he used that power to control them and sexually  
7 abuse them.

8 That was equally true for VS XXXX, who underlies  
9 Count 5. VS XXXX lived at Hope Transition Center for two  
10 years before Daniel was arrested. During that period VS XXXX  
11 was ages 11 to 13 years old. VS XXXX told you for that whole  
12 period, so from before he was 12, Daniel Johnson was, in  
13 VS XXXX's words, violating him at Hope Transition Center. He  
14 was sexually abusing him.

15 And as VS XXXX told you very much like LS X told  
16 you, Daniel Johnson would give him money or cookies after the  
17 abuse, and VS XXXX and LS X understood it to be payment for  
18 the abuse. They understood it to be as a result of the  
19 abuse. When asked whether VS XXXX was scared of Daniel,  
20 VS XXXX told you, I was afraid he would continue to violate  
21 me.

22 Now, VS XXXX detailed the abuse that he endured. He  
23 told you about the first time that Daniel Johnson abused him.  
24 He and LS X were in Daniel Johnson's bedroom watching TV.  
25 LS X fell asleep, and afterwards, Daniel Johnson made VS XXXX

1 perform oral sex on him. He did that many, many times.

2 VS XXXX told you how Daniel Johnson pushed his head down when  
3 making him perform oral sex, and told you how Daniel Johnson  
4 came.

5 VS XXXX also told you about the two or three times  
6 that Daniel Johnson anally penetrated him. He told you that  
7 it was painful. He told you that Daniel Johnson used  
8 lubricant, and he told you that he couldn't stop Daniel  
9 Johnson because Daniel Johnson was much bigger than VS XXXX.

10 Count 6, Count 6 involves CC XXXXXX, who is often  
11 referred to as CC X. CC X was between the ages of 12 and  
12 15 years old while he lived at Hope Transition Center. He  
13 was 15 when Daniel was arrested. As CC X told you, Daniel  
14 Johnson sexually abused CC X in very familiar ways. And  
15 afterwards he gave CC X money and gifts right after it  
16 happened.

17 CC X told you that he was ashamed. In fact, when  
18 asked, "Before Daniel Johnson was arrested, did you ever tell  
19 anyone what Daniel was doing to you?" And CC X said, "No."  
20 When asked, "Why not?" He said a single word: "Ashamed."

21 Daniel Johnson's sexual abuse of CC X included skin  
22 on skin touching where Daniel Johnson made CC X touch Daniel  
23 Johnson's penis. It included oral sex where Daniel Johnson  
24 put his penis in CC X's mouth, and when Daniel Johnson  
25 ejaculated. And it included anal sex where, as CC X told

1 you, Daniel Johnson put lotion on his penis first, and then  
2 painfully penetrated CC X.

3 Count 7 and 8 have different charges. They involve  
4 traveling, either across a country line or across a state  
5 line with an intent. So let's talk about them each in order.

6 With Counts 7 and 8 you have a different venue  
7 requirement, so let's talk about that first. For Counts 7  
8 and 8 the government has to prove that it is more likely than  
9 not that the offense was begun, continued, or completed in  
10 the District of Oregon. There's a couple of things you can  
11 look for in finding this venue requirement is satisfied.

12 First, you can look to the parties' stipulation, and  
13 the stipulated fact that everyone has agreed on. These facts  
14 show you the date on which Daniel Johnson was in Oregon, then  
15 departed the United States and traveled to Cambodia.

16 And if you look at these dates and overlay them with  
17 the dates of the abuse, you will see that during this period  
18 Mr. Johnson was doing exactly what it seems like he was  
19 doing. He was abusing these kids in Cambodia, systematically  
20 and repeatedly, several children. He was coming back to the  
21 United States, and as Lindsay Alderson told you, raising  
22 money to fund the orphanage and then he was turning around  
23 and going back to Cambodia.

24 And on each of those trips to the United States  
25 Mr. Johnson hit destinations all around the country, but each



1 one he came to Oregon. So the venue statute requires that  
2 the offense was begun, completed, or continued in or through  
3 Oregon. And that's the basis for you finding venue.

4 In addition to the travel stipulation, you also have  
5 in Exhibits 307 through 311, Mr. Johnson's IP and message  
6 records from his Facebook. So you can go through these  
7 carefully if you would like. What they will show is  
8 Mr. Johnson did exactly what I just described to you. He was  
9 in Cambodia abusing these kids. He came back to the United  
10 States to raise money. He hit a bunch of churches around the  
11 country, one of the places he stopped was in Oregon, and then  
12 he turned around and went back to Cambodia. He always  
13 intended to go back, and he always did factually go back to  
14 Cambodia.

15 Once you find venue, that it was more likely than  
16 not that there was venue, you can turn to Count 7 and we can  
17 look at the elements of that charge. Count 7 charges  
18 Mr. Johnson with traveling in foreign commerce with the  
19 intent to engage in illicit sexual conduct.

20 So there's three elements here, and we will talk  
21 about each in turn. First is that Mr. Johnson is an American  
22 citizen. So we have talked about this. You have a passport  
23 and a stipulation that says he has always been an American  
24 citizen. Second, is that Mr. Johnson traveled in foreign  
25 commerce from the United States to Cambodia.

1           Now, there's ample evidence of the time that  
2 Mr. Johnson was in Cambodia, but we also have a stipulation.  
3 And the stipulation tells you that on these dates, dates  
4 within the period indicted in Count 7, Mr. Johnson traveled  
5 from the United States to Cambodia, back and forth, back and  
6 forth, raising money here, and sexually abusing kids there.

7           Finally, the third element requires for you to find  
8 that Mr. Johnson traveled to Cambodia for the purpose of  
9 engaging in illicit sexual conduct. So let's talk about  
10 that. As the Court instructed you, there's law on how you  
11 figure out whether there was a purpose for which Mr. Johnson  
12 was traveling. So let's talk about what that law is.

13           In order to find that Mr. Johnson is guilty of Count  
14 7, you have to find that a dominant, significant, or  
15 motivating purpose of his travel back to the orphanage in  
16 Cambodia to run it and to sexually abuse these children was  
17 to engage in illicit sexual conduct. You have to find, in  
18 other words, that his travel from the United States was  
19 not -- excuse me, that his intent or desire to sexually abuse  
20 these kids was not just incidental to his travel.

21           Now, in finding that it's a dominant, significant,  
22 or motivating purpose, you don't have to find that it was the  
23 only purpose. A person can have a variety of purposes while  
24 they are traveling. It just has to have been a significant  
25 one.

1           So you have to think about the evidence and use your  
2 commonsense and ask yourself, how big of a role do you think  
3 it played for Mr. Johnson, that waiting for him in Cambodia  
4 he had a stable of children who he could sexually abuse  
5 whenever he wanted, however he wanted, for as long as he  
6 wanted? How big of a role do you think it played for  
7 Mr. Johnson when he was deciding whether to stay in America  
8 or go back to that orphanage in Cambodia, do you think it  
9 played that those kids were scared of him, and they were  
10 scared of losing their home, and they were scared of  
11 resisting him. And they were scared of getting in trouble,  
12 so he could do whatever he wanted with them.

13           Do you think that that was incidental to  
14 Mr. Johnson's travel to go back to Cambodia and run an  
15 orphanage that was predominantly boys, and included several  
16 boys who he was sexually abusing on a regular basis?

17           Count 8, Count 8 is in many ways very similar to  
18 Count 7. There's a couple of differences. Count 8 has two  
19 elements. The first of which is that Mr. Johnson traveled  
20 across a state line -- didn't travel internationally, just  
21 traveled across a state line, between the dates in the  
22 indictment.

23           Here again, this is pretty easy, because you have  
24 to -- the parties have agreed that Mr. Johnson was in Oregon  
25 on these days, which are included in the indicted period, and

1 that he left, not only Oregon, he left the United States and  
2 traveled to Cambodia. So in order to leave the United States  
3 you have to cross the Oregon state line. You don't have to  
4 spend a ton of time on that one.

5 The second element is similar to what we just talked  
6 about. You need to look at what Mr. Johnson's intent was  
7 when he crossed that state line. And again, you need to find  
8 that it was a dominant, significant, or motivating purpose;  
9 that it wasn't merely incidental that he engaged in a sex act  
10 with a child under the age of 12.

11 Now, you can match up the dates, but I will tell you  
12 what two children you should focus on. LS XXXXX was abused  
13 during the entire period that he was at Hope Transition  
14 Center up to Mr. Johnson's arrest. And at no point during  
15 that period was he ever over the age of 12. You have heard  
16 testimony and you have seen evidence, including LS X's  
17 passport, that tells you that on the day of Mr. Johnson's  
18 arrest, he was 11 years old.

19 The other kid you can look at in considering this  
20 charge -- well, you can just look at LS X. That's all for  
21 now.

22 Now, you have heard a lot of testimony from these  
23 boys, and you have heard a lot of testimony from other boys  
24 who were abused, or who Mr. Johnson intended to abuse. And  
25 it seems that over the course of this trial you have heard

1 day after day after day after day of people corroborating the  
2 boys' testimony, of the boys corroborating one another's  
3 testimony, of evidence that corroborates the boys' testimony.

4 So while I will not go over all of the pieces of  
5 corroboration that you have heard, I will remind you of 30 of  
6 them, so let's go through those. For Count 1 involving BT XX  
7 XXXX, you heard testimony that right after the arrest BT XXX  
8 XXXX told a woman, Knot, that Daniel had abused him, and he  
9 tried to have sex with him. You also heard in early 2014  
10 BT XX confided in Kelby Alderson, telling Kelby that it was  
11 true Daniel had sexually abused him.

12 You also heard testimony from Lindsay Alderson,  
13 telling you that in early 2014 BT XX told her that the  
14 accusations of sexual molestation against Daniel were true.  
15 And finally, you heard about the 2014 child forensic  
16 interview conducted by Martha Finnegan, who is a forensic  
17 interviewer for the FBI, in which BT XX talked to her about  
18 the abuse.

19 For Count 2, ES XXX, you heard testimony from Tola  
20 telling you that he saw ES XXX sleeping in Daniel Johnson's  
21 room at the third house in Hope Transition Center. You heard  
22 testimony from Pastor Sopheak saying approximately two or  
23 three weeks, ES XXX and LS X came to him and told him that  
24 Daniel was sexually abusing them.

25 You heard testimony from SESX, who told you that at

1 the first or second house for Hope Transition Center, ES XXX  
2 had told him that Daniel had played with his penis and sucked  
3 his penis. You heard testimony from BT XX who told you that  
4 before he moved to the United States, he had spoken to ES XXX  
5 and ES XXX had told him what Daniel had did to him, quote,  
6 just like husband and wife. And finally, you heard part of  
7 ES XXX's forensic interview with the FBI from 2017.

8 Count 3, LS X, for LS X, you also heard testimony  
9 from Tola who told you that at the third house he overheard  
10 LS X tell his friends that Daniel had touched his penis. You  
11 heard from Pastor Sopheak who, like ES XXX, told you about  
12 two to three weeks before Daniel's arrest LS X and ES XXX had  
13 told him that Daniel was abusing them.

14 You heard testimony from ES XXX who told you that  
15 his younger brother had told him that Daniel was abusing him.  
16 You heard testimony from LT XXXXXXXX, who told you that LS X  
17 had told him that Daniel had touched his penis, and also had  
18 told him that Daniel had sucked his penis.

19 You heard testimony regarding LS X's disclosure on  
20 the date of arrest by the Cambodian National Police, and what  
21 he told them. And that he told you that he had, quote,  
22 sparingly told them, end quote, what Daniel had been doing,  
23 he told you that he had disclosed the abuse that was taking  
24 place.

25 LS X also told you that when it came time for

1 Daniel's trial in Cambodia, he stood up and he told them  
2 about Daniel abusing him. Finally, you heard part of LS X's  
3 forensic interview with FBI forensic interviewer Martha  
4 Finnegan that took place in 2014.

5 For S0 XXX you heard BT XX testify that S0 XXX had  
6 told him that Daniel was abusing him before BT XX moved to  
7 the United States. You heard Pastor Sopheak tell you that  
8 S0 XXX had told him that Daniel was sexually abusing him, and  
9 told him that Daniel had played with his penis and that  
10 Daniel had had sex with S0 XXX, but that Daniel pulled his  
11 penis out of S0 XXX's anus because it was hurting S0 XXX.

12 You heard from SESX who told you that at the second  
13 or third house, S0 XXX told him that Daniel had been with him  
14 in a sexual way. You heard from SS XX who told you that  
15 the -- who told you that before the arrest, LS X had told him  
16 that he and Daniel had slept together and done sexual things.

17 You heard from Lindsay Alderson who told you about  
18 S0 XXX telling her that the sexual allegations against Daniel  
19 were true, and that Daniel had done those things to S0 XXX.  
20 You heard from Kelby Alderson who told you basically the same  
21 thing. And you heard about the 2016 forensics interview in  
22 which S0 XXX disclosed abuse to the FBI.

23 For VS XXXX, you heard that VS XXXX testified and  
24 talked about the abuse at the Cambodian trial. And you heard  
25 that VS XXXX had talked to FBI interviewer Martha and told

1 her about the uncomfortable things that Daniel had done to  
2 him.

3 Finally for Count 6, you heard from Lindsay Alderson  
4 that CC X, who is the subject of Count 6, told her that  
5 Daniel would call him into his room, touch him in an area,  
6 and at that point he pointed to his genitals. You heard from  
7 Kelby Alderson who told him the same thing.

8 You heard that CC X told the Cambodian National  
9 Police that Daniel had touched his sex organ, and you heard  
10 about CC X's interviews in 2014 and 2017 with the FBI  
11 forensic interviewers in which he told them that Daniel had  
12 touched his penis, and told the second one about all the  
13 things that Daniel had done to him.

14 Now, ladies and gentlemen, in addition to all of  
15 this corroboration, I want to highlight two more things.  
16 First, you heard testimony from three witnesses, Pastor  
17 Sopheak, ES XXX and LS X about ES XXX and LS X telling Pastor  
18 Sopheak, before Daniel's arrest, before the involvement of  
19 any law enforcement, before any interviews, telling Pastor  
20 Sopheak that Daniel was abusing them.

21 And you heard testimony from ES XXX and Pastor  
22 Sopheak about Pastor Sopheak confronting Daniel about two or  
23 three weeks before Daniel's arrest. You also heard testimony  
24 from ES XXX and LS X that after Pastor Sopheak confronted  
25 him, the abuse stopped up until the time of Daniel's arrest.



1           And you have heard testimony regarding Facebook  
2 messages that Pastor Sopheak sent and received prior to the  
3 confrontation with Daniel, and after that confrontation.

4           You have also heard testimony and seen evidence of  
5 another confrontation in which BT XX spoke to Daniel, and  
6 Daniel explained that "I have done nothing in the United  
7 States and I have done nothing in Vietnam." But notably  
8 absent from Daniel Johnson's denials to BT XX was "I have  
9 done nothing in Cambodia."

10           In addition to the evidence of Daniel Johnson's  
11 repeated abuse of all these boys, you have also learned of  
12 the years that Daniel Johnson spent frightening,  
13 intimidating, and most of all controlling them. You have  
14 heard about his efforts to control them before he was  
15 arrested, but you have also heard about how those efforts  
16 continued after the arrest.

17           And they give you some insight into why the boys  
18 haven't always disclosed abuse to everyone they spoke to.  
19 You heard testimony from S0 XXX and ES XXX regarding their  
20 recantation, and from ES XXX about Daniel telling him to tell  
21 his younger brother LS X to lie.

22           You heard testimony from LT XXXXXXXX about him  
23 visiting Daniel in jail. Daniel apologizing to him, and  
24 telling him, Don't say anything to the FBI. You have seen  
25 Facebook messages between Daniel's brother Gary and Pastor

1 Sinai talking about perhaps giving 10K to BT XX to change his  
2 story.

3 And you have also seen Facebook messages between  
4 Daniel's brother, Gary, and S0 XXX talking to S0 XXX about  
5 talking BT XX into recanting, and how if they do that,  
6 Daniel's lawsuit against the FBI will be successful, and they  
7 can share in the profits.

8 Ladies and gentlemen, at the end of the day, this is  
9 not a difficult case to understand. You have heard boy after  
10 boy after boy after boy after boy after boy after boy after  
11 boy disclose Daniel Johnson's sexual abuse of them, or his  
12 attempts to sexually abuse them. One by one they got on the  
13 stand and testified to you about Daniel Johnson grabbing  
14 their penises, making them grab his penis, performing oral  
15 sex on them, making them perform oral sex on him. And Daniel  
16 Johnson's sometimes successful, sometimes unsuccessful,  
17 efforts to anally penetrate them.

18 Now, you saw and you listened to these witnesses.  
19 Does it sound like they were making it up for a witness fee?  
20 Did it look like they were fabricating their stories to get  
21 immigration benefits? Do you think that 11-year-old LS XX  
22 XXX, raised in the rural provinces of Cambodia, coming to  
23 Phnom Penh just for the opportunity to go to school and  
24 living in this orphanage, do you think that LS XXXXX was  
25 coming up with a way in which to make up allegations so he

1 could game the American immigration system and eventually get  
2 a T visa at 11 years old? Does that make sense to anyone?

3 Taken together, these boys have painted a stark and  
4 horrifying picture of their lives at Hope Transition Center,  
5 where they were subjected to repeated sexual abuse by Daniel  
6 Johnson, where they were afraid of him, where he gave them  
7 money and food and gifts and provided shelter and schooling  
8 to them, and where what he got out of it was control and  
9 sexual abuse of them.

10 They told you that they knew they couldn't have  
11 resisted, that it wouldn't have made any difference. And  
12 that disclosing the abuse to anyone might have caused the  
13 orphanage to shut down, and for them to lose the food,  
14 shelter, and schooling they depended on.

15 The evidence has shown you that during the period  
16 where Daniel Johnson was abusing all of these kids, he  
17 traveled back and forth between the United States and to  
18 Cambodia. And each time he did so, he came and went from  
19 Oregon. As we told you, a person can have multiple purposes  
20 when they travel and you have to ask yourself whether a  
21 significant purpose of Daniel Johnson's travel was his  
22 ability to go back to Cambodia and abuse BT XX, ES XXX, LS X,  
23 SO XXX, VS XXXX, and CC X.

24 We believe that when you consider the evidence, the  
25 testimony, and the exhibits, the stipulated facts, and you

1 follow the Court's instructions and use your commonsense, you  
2 will find that Daniel Johnson molested every one of these  
3 boys, and that he traveled across state lines and to Cambodia  
4 to continue doing so.

5 And given that recognition and the other evidence  
6 before you, we believe that you will return a verdict of  
7 guilty on all counts. Thank you.

8 THE COURT: Let's take a brief break while the  
9 defendant sets up to give its closing argument. We will be  
10 in recess for five minutes.

11 (JURY OUT.)

12 (Brief recess taken from 1:33 p.m.

13 to 1:44 p.m.)

14 THE COURT: All right. Bring the jury in.

15 (JURY IN.)

16 THE COURT: Please be seated, everybody. We will  
17 now hear from Ms. Maxfield for the defense.

18  
19 DEFENSE CLOSING ARGUMENT

20 MS. MAXFIELD: Good afternoon, may it please the  
21 Court, Counsel, Mr. Johnson, ladies and gentlemen of the  
22 jury, I want to begin by thanking each of you. I know that  
23 these long trials, especially taking two weeks out of a  
24 spring period, can be burdensome and can be disruptive, both  
25 professionally and personally. And I want to thank you for

1 taking the time to do this.

2 Each of us has noticed how attentive all of you have  
3 been from the beginning to the end, and I want to thank you  
4 for that, too. I want to thank you, especially on behalf of  
5 my client, who appreciates the fact that as his fate is in  
6 your hands, you have taken the time to really pay attention  
7 to the evidence.

8 The American system of justice is unlike any other  
9 system of justice, we don't try the accused based on  
10 suspicion. We do not convict him based on conjecture, and in  
11 this case we certainly don't convict a person based on  
12 unreliable proof. In the American Court system a prosecution  
13 must prove a man's guilty beyond all reasonable doubt with  
14 descent, reliable, believable evidence.

15 Proof beyond a reasonable doubt. It doesn't mean  
16 that maybe he's guilty. It doesn't mean that probably he's  
17 guilty. It certainly doesn't mean that it's highly likely  
18 that he's guilty. To convict in American Court, you have to  
19 be sure, based on the evidence that you have actually heard  
20 in the case.

21 Maybe the best way to understand proved beyond a  
22 reasonable doubt is to look at the various levels of proof  
23 that we use in American Courts.

24 I see how you're doing that. She's way ahead of me.

25 Probable cause. What does probable cause mean? It

1 means that there's a quantum of evidence that would actually  
2 let you search a car, a person's car. It means there's  
3 probably something going on there.

4 Preponderance of the evidence. That means we get to  
5 a 51 percent chance, it's more likely that this occurred than  
6 that it didn't occur.

7 The next area is clear and convincing. Clear and  
8 convincing is a very, very high level of proof. The Supreme  
9 Court has said that it's one of those that leaves you without  
10 any significant doubt, but it's the level of proof that we  
11 actually are willing to take a person's child away.

12 In other words, you could lose your children if they  
13 can prove by clear and convincing evidence that you have done  
14 something that is harmful to them, or they are not safe with  
15 you. It's a very high burden of proof.

16 But higher than that still is proof beyond a  
17 reasonable doubt. And that means as you sort through the  
18 evidence, if there's any remaining reasonable doubt you have  
19 an obligation to acquit.

20 The Court is going to tell you that a reasonable  
21 doubt isn't one based on something that is imaginary or  
22 something that you have made up. A reasonable doubt is based  
23 on a lack of evidence, or something that is missing in the  
24 case, or something that gnaws you about what you heard.

25 What is an imaginary doubt? I don't know how many

1 of you scuba dive. I used to, and then ended up in the  
2 chambers and stopped that. But one of the things you do  
3 before you go down in the water is you want to check your  
4 regulator to make sure it's clear. And you might have  
5 checked your regulator before you got on the boat, you might  
6 have checked the regulator when you left the house. You  
7 might have checked your regulator five times in the car, but  
8 just before you step off the boat, you check your regulator  
9 again to make sure that it's clear.

10 Is that an unreasonable doubt? No. That regulator  
11 could have been clear 99 times out of 100, but it's not an  
12 unreasonable doubt to check the regulator before you jump.  
13 Same thing with a parachute. Nothing crazy about checking  
14 the chute to make sure it's folded exactly as it should be  
15 before you jump out of the plane.

16 Even though everything would suggest that everything  
17 is probably fine, there's nothing unreasonable about looking  
18 again to make sure that you are safe.

19 An imaginary doubt would be something crazy. I had  
20 a trial a little while ago, and the prosecutor had talked to  
21 the jury about circumstantial evidence. And she tells a  
22 story that prosecutors often do about the mom who bakes  
23 cookies and tells the boy, don't eat the cookies. And the  
24 mom leaves, and the little boy eats all the cookies. And the  
25 mom comes home, and she sees crumbs all over the cookies

1 (sic), she says, I think you ate the cookies. And the boy  
2 says, no.

3 And then the prosecutor says that's proof beyond a  
4 reasonable doubt. You can see it from circumstantial  
5 evidence. So my client was so upset about this that he came  
6 up to me afterwards and he said, well, that's not at all --  
7 like what could have happened is like a guy could have been  
8 walking down the street. He could have walked in the house.  
9 He could have found those cookies, he could have eaten all  
10 but one. He could have forced the little boy to eat a  
11 cookie, and then he would have crumbs on him.

12 So that would be an imaginary doubt. That would be  
13 cobbling a bunch of crazy things together to call into  
14 question the level of proof. But in this case, a reasonable  
15 doubt just requires you to sift through the evidence  
16 carefully.

17 Where to begin in this case, because I think it's  
18 where the government has really failed to prove a material  
19 element, and it's an important material element. And that's  
20 in Counts 7 and 8. 7 and 8, each of these charges are  
21 different than Counts 1 through 6. Counts 1 through 6  
22 actually talk about engaging in a sex act. That's kind of  
23 the core of the offense, to engage in a sex act.

24 But Counts 7 and 8 are thought crimes. It has to do  
25 with what is in the defendant's head. This defendant's head



1 at the time that he travels.

2 You were there, and then you weren't.

3 And the question really for all you is, why did  
4 Daniel Johnson get on a plane and fly to Cambodia? That's  
5 the question you have to answer, and you have to look at the  
6 evidence to see whether the government has proven that the  
7 reason he got on an airplane and flew to Cambodia is to have  
8 sex with kids.

9 7 and 8 both turn on his purpose and intent, and the  
10 Court has instructed you that the purpose and intent has to  
11 do with the dominant, significant, or motivating purpose. In  
12 Count 7, is the dominant, significant, or motivating purpose  
13 to engage -- to travel in foreign commerce to engage in  
14 illicit sexual conduct. And Count 8, the government has to  
15 prove the same thing, a dominant, significant, or motivating  
16 purpose of Mr. Johnson to travel across the state line to  
17 engage in sex with someone under the age of 12.

18 So the key question and the key period is, what is  
19 in his head when he gets on the plane. And the way we  
20 examine that is to look at the phrases, dominant,  
21 significant, and motivating purpose.

22 Dominant, an ordinary definition, is commanding or  
23 controlling or prevailing over all others. Significant,  
24 important, great, especially in leading to a particular  
25 result. Motivating, the reason one has for acting in a

1 particular way. And then contrary to that is incidental,  
2 accompanying, but not a major part of something.

3 So what was Daniel Johnson's purpose in traveling?  
4 I think if you actually look at the evidence, that the  
5 evidence would point you to a single purpose for travel. The  
6 best way to understand why Daniel Johnson traveled, is to  
7 think about what he was focused on, and what he was doing in  
8 Cambodia, and why he would have left the country at the time.

9 Pretty soon you are going to see a slide that says  
10 reasonable doubt. Mr. Johnson traveled to fund and  
11 facilitate the Hope Ministries, good works in Cambodia. Look  
12 at the evidence and ask yourself, what did the evidence show  
13 that Mr. Johnson was doing during the relevant period in  
14 these counts. During the time he had been in Cambodia -- I  
15 think Karla Comstock begins in 2011, 2012 is when she comes  
16 to visit. And that gives a good sense of what he's up to.

17 Pastor Sopheak is also there during that period of  
18 time. And what Pastor Sopheak says is that during this  
19 period of time that he had met Daniel Johnson, and then he  
20 met a fellow by the name of Pastor Pilot are doing just  
21 ordinary good works in Cambodia.

22 And Daniel Johnson has managed to find a bunch of  
23 computers, and he set up this Coffee House where people can  
24 come and take Bible classes, learn English and work on a  
25 computer. At this time he has no intention or desire to run

1 any kind of Cambodian orphanage.

2 But Pastor Pilot at one point moves in, and Pastor  
3 Pilot brings with him several children. One day, and Pastor  
4 Sopheak talked to you about this, Pastor Sopheak is out in  
5 Prey Veng and he's looking for some land or property for them  
6 to build a Prey Veng compound on.

7 And while he's away, out of nowhere, Pastor Pilot  
8 and his wife leave, they leave the premises, and they leave  
9 the children behind. So at this point, things kind of shift,  
10 but not too much. Karla Comstock tells you by the time she  
11 gets there and she's meeting the children, that she has a  
12 sense that Daniel Johnson really -- that's not where his  
13 focus is.

14 You may recall she testified that she's going to go  
15 talk to him about the fact that he's being short or abrupt  
16 with the children, and she says, Before I began to even  
17 explain what I was upset with, he jumped into it just saying,  
18 I never knew I was going to be a single man working in this  
19 country with all these kids. It's really hard. She says he  
20 buried his head and threw his notebook down, and she doesn't  
21 remember if he started to cry or if he sobbed, but she does  
22 remember that he was very very upset.

23 She also remembers his energy in that time period,  
24 what he was focused on just personally. She said it was  
25 amazingly chaotic. Daniel Johnson was very busy, hectic,

1 kind of coming and going a lot. He just seemed overwhelmed,  
2 always giving people instructions for people to come and go  
3 and do this and do that. And making arrangements for the  
4 church teams to come to the center, to go out and do the good  
5 works. It was the good works. It was the good works that  
6 had Mr. Johnson's heart, and it was the good works that held  
7 his time, and it was the good works that held his attention.

8 The very, very best evidence, and frankly, the only  
9 evidence that you have about why Daniel Johnson traveled back  
10 to Cambodia is to look at the evidence about why he left  
11 Cambodia in the first place. And he left Cambodia to find a  
12 way to fund the good works projects that they were doing at  
13 Hope Transition. He would go to the United States, because  
14 it was the only way to fund the projects that they had going.

15 He would come to the United States and spend  
16 anywhere between five and eight weeks, and he would go around  
17 to these various churches, and he would have these fund  
18 raising events. And he would raise enough money over the  
19 period of time to fund the things that he was thinking about,  
20 or were in the planning stages back in Cambodia.

21 One of the very best pieces that gives you a clue  
22 about what Mr. Johnson was thinking while he was in the  
23 United States is to look at Government's Exhibit 311. In  
24 Government's Exhibit 311 -- and that's really tiny. What you  
25 see is they have pulled out of a Facebook page Mr. Johnson's

1 itinerary. This is what I am going to do while I'm in the  
2 United States.

3 And if you look at that itinerary, it's just chock  
4 full of fund raising, and visiting the various churches, to  
5 get the money together, and to get the support and try to  
6 find church teams that will come back to Cambodia to assist  
7 in the projects that they were doing.

8 So for example, in this one from April 26 to May  
9 31st, from a solid month he's moving from church to church to  
10 church to church to raise money, to do fund raisers, and talk  
11 about the good works that they are doing, and try to keep the  
12 energy behind the forces of good works that Hope is engaged  
13 in in Cambodia. And then finally on May 31st he flies back  
14 to Cambodia.

15 Having spent four to eight weeks in the United  
16 States in Christian churches, raising money, why did he  
17 decide to go back to Cambodia? He decided to go back to  
18 Cambodia to spend the money. That's why he's going back to  
19 Cambodia. He's going back to Cambodia with the money that  
20 he's made, with the time investment, the teams that are now  
21 going to come, and he's going to engage in the good works  
22 that have been planned. That's his goal. That is his  
23 dominant purpose, that is his purpose and intent.

24 Anything else is peripheral. He has more wells he  
25 wants to dig. He has more eyeglass clinics that he wants to

1 put on. He wants to go back and fix the church in Kampot.  
2 He had money to do that.

3 In fact, in 2013, just as everything has exploded in  
4 his last trip to the United States, what's he focused on?  
5 He's focused on the medical clinic in the Prey Veng compound,  
6 the medical clinic that is partially finished. He's gone to  
7 raise money in the United States to finish that clinic. He's  
8 gone to get the medical supplies to actually supply that  
9 clinic, and that's the next phase of what he's going to do.  
10 Everything, everything, all of his focus, 100 percent of his  
11 focus when he leaves Cambodia and comes back from Cambodia is  
12 to make these projects work. And there's no other evidence  
13 in the record. That's the only evidence in the record.

14 The government's suggestion that there's some  
15 peripheral purpose in him leaving the United States and then  
16 coming back really doesn't make any sense if you think about  
17 what he's doing, where his focus is on. If the government is  
18 correct and his sole focus is on molesting children, or even  
19 primary focus is on molesting children, why leave Cambodia in  
20 the first place?

21 He leaves Cambodia to fund the projects and in these  
22 two elements, 7 and 8, the government has failed to prove  
23 this -- these two charges beyond a reasonable doubt, because  
24 they have failed to establish he has an ulterior purpose, his  
25 motivating purpose, his significant purpose in traveling.

1           You are going to have in the jury room exhibits --I  
2 have shown you a few, but you are going to have a gazillion.  
3 You have seen us go through this, because we wanted to give  
4 you a sense of what our client was doing in this country.  
5 But you are going have a gazillion photographs, itineraries,  
6 you are going to have conversations all focused on what  
7 Mr. Johnson was focused on, and that's the good works in  
8 Cambodia.

9           Now I want to talk about the other charges more  
10 generally. A different measure. We're dealing with a  
11 different culture. We're dealing with people who come from a  
12 very different place, who have very, very different lives  
13 than any of us.

14           In trying to measure the motives of people and  
15 trying to measure whether something is a benefit, trying to  
16 measure whether someone would make an accusation or not make  
17 an accusation, it would be a terrible mistake to use an  
18 American ruler. Because the government stressed, and we all  
19 stressed in this case that the Cambodian witnesses are very,  
20 very poor. They are very deprived. They are looking for  
21 ways to survive.

22           And it's all very true. That's exactly who these  
23 people are. That's exactly where they have come from. The  
24 Cambodian witnesses have lived in a very poor, undeveloped  
25 country. And they testified their parents have died, or

1 abandoned them, or simply were unable to provide them with  
2 even the basics of food and shelter. That's who these  
3 witnesses are.

4 Karla Comstock describes the country as being --  
5 she's overwhelmed by how extremely impoverished it is, how  
6 it's run down, and the people need so much. They don't have  
7 a foot to stand on. She talks about the fact that there  
8 aren't very many educated people in the country to build it  
9 back up, and people are needy, hungry, wonderful people to  
10 work with. But it's that level of need and deprivation you  
11 need to keep in mind as you measure motive.

12 SO XXX describes why he lives with his uncle. As  
13 you recall, his parents disowned him, and abandoned him, and  
14 just kind of given up on him. And he talks about going to  
15 live with his uncle, and he says that he's up very, very  
16 early in the morning and constantly working until midnight.  
17 And that's what is expected of him. That's how his day goes.

18 Again, we're talking about people with a level of  
19 deprivation and desperation that is probably unlike the  
20 people that any of us know in this country.

21 As a result of that, you have witnesses who have  
22 been conditioned to focus first on what it's going to take to  
23 survive. Survival is and always will be the bottom line. It  
24 just will be. As you recall, there was some testimony about  
25 it's a common problem in Hope Transition with the folks that



1 lived there with stealing and lying, and just had these kids  
2 coming in. BT XXXXXXXX, I think, he was questioned about the  
3 little boy who kept stealing, and a description of what to  
4 do -- check his pack, send an older boy to school with him,  
5 do all of these things because this was part of how the kid  
6 interacted, trying to take what he needed.

7 If you recall LS X's final punishment that he and I  
8 talked about on cross-examination, perhaps the most serious  
9 punishment he had was for stealing some money. Even ES XXX  
10 talks about this. There's a story he tells about getting in  
11 trouble for the new shirt, the new shirt that he brings back,  
12 claiming that a neighbor has just given him the new shirt.  
13 He ended up getting punished on that occasion, presumably  
14 because Mr. Johnson believed it wasn't a gift, and in fact,  
15 it was a shirt that had been stolen.

16 I only tell you these stories, because it gives you  
17 a sense of what these kids are up against, and what it is  
18 that motivates them, and how it is that they get through  
19 life. And it's important to keep in mind as you sit through  
20 the evidence in this case. From birth these are young men  
21 who have learned they won't survive, let alone succeed,  
22 unless they are willing to scrape, and sometimes steal,  
23 manipulate, and yes, in this case, sometimes lie. They have  
24 been conditioned to keep a sharp eye out for the next  
25 opportunity.

1 Reasonable doubt. Hopes and promises. The young  
2 Cambodian witnesses are deprived, but they are not  
3 unmotivated. These are not just -- they haven't given up.  
4 These are kids that are as induced by a prayer and induced by  
5 a hope as they are by a promise. They know any opportunity  
6 shouldn't be squandered, that you need to grasp the next  
7 opportunity because it might be your last one. They have an  
8 eye out for it, and they will invest energy in obtaining it.

9 The government made the witnesses a few really  
10 significant promises in this case in exchange for  
11 cooperation. Motivators by themselves, but they also left a  
12 huge amount of room with these witnesses for hopes and  
13 prayers. Things that you might get, things that you probably  
14 could get. And it's kind of in this area of hopes, prayers,  
15 and promises that we find the chief motivators in this case.

16 Judge McShane has instructed you, it's in the  
17 instruction on testimony of witnesses, compensation and  
18 benefits. That you should examine the testimony of these  
19 witnesses who receive benefits from the government with  
20 greater caution than with other witnesses.

21 This is -- I mean, this isn't minor. It's something  
22 you should consider seriously as you sift through the  
23 evidence and think about why people said the things they  
24 said, and why people did the things they did.

25 Now, all of the government witnesses are going to

1 make about \$2,800 just in witness fees. A lot of that, I  
2 hope, will go home with them, although LS X says he ate all  
3 of his. Maybe he discovered room service or something else  
4 about our country. But hopefully, some of this goes home,  
5 because one of the things you learned from the expert witness  
6 today is that a police officer in Cambodia makes \$240 a  
7 month.

8 So \$2800 gives you, what, about 10 months, 11 months  
9 of salary. That's -- that is -- that's a motivating amount  
10 of money in the place where these folks live.

11 But I submit to you that really that's not all  
12 that's in play here. There are other potential benefits,  
13 other potential parting gifts that are much, much more  
14 significant than the cash that might go home. And I want to  
15 look at what has happened to BT XXXXXXXX, to discuss that.

16 BT XXXXXXXX agreed to cooperate, and as a result, he  
17 was promised, first of all, an extended visa that allows him  
18 to stay for a period of time. But with that comes much, much  
19 more. What is the value -- think about the value you put on  
20 the path to US citizenship. We know many, many people who  
21 would give an arm and leg for such a path to US citizenship.  
22 It can't be ignored as a powerful, powerful motivator.

23 The government is going to say it was just BT XXX  
24 XXXX. None of the other people got that. And I want to look  
25 again at BT XXXXXXXX's cross examination, and talk to you

1 about how all of that played out. And then we're going to  
2 come back and ask whether that claim really makes any sense  
3 at all.

4 Mr. Weinerman talked to Mr. BT X and he asked, "At  
5 some point you decided that you wanted to stay here, right?"  
6 Remember, this was at a time when Mr. BT X's -- he has this  
7 one-year visa, and it's about to expire and now he's deciding  
8 whether he's going to go talk with the FBI.

9 So Mr. Weinerman says, "You wanted to stay here,  
10 right?"

11 "Mr. BT X, Yes.

12 "And at some point you decided to talk to the FBI,  
13 right?"

14 "Yes.

15 "And that was in February of 2014?"

16 "Yes.

17 "And that's the first time you told them or anyone  
18 in the United States about alleged sexual abuse by Daniel  
19 Johnson?"

20 "Yes.

21 "And you discovered at some point in 2014 before  
22 your visa expired that if you cooperated in the investigation  
23 of Daniel Johnson that you could be eligible to get a visa  
24 that would allow you to stay in the United States?"

25 "Yes.

1 "And you have been here since August of 2013, right?

2 "Yes.

3 "And you have not been back to Cambodia in four and  
4 a half years, almost five?

5 "Correct.

6 "And the FBI helped you get that extension of your  
7 Visa; is that correct?

8 "Yes.

9 "And the FBI helped you find an attorney to do that  
10 correct?

11 "Yes.

12 "And your visa was extended before it expired?

13 "Yes.

14 "And it allows you to work?

15 "Yes.

16 "And you have been working here since you got this  
17 new visa?

18 "Yes, I have been working at a grocery store in  
19 Beaverton.

20 "And does this visa also allow you to go to school?

21 "Yes.

22 "And to get financial aid?

23 "Yes.

24 "And you have been able to do both, go to school and  
25 get financial aid, correct?

1 "Yes.

2 "And so you obtained another visa in 2016 which  
3 allows you to stay here until 2020, and you are allowed to  
4 apply for a green card within three years, correct?

5 "Yes.

6 "And it also allows you, within five years after  
7 obtaining the green card, to become a United States citizen?

8 "Yes.

9 "And it's your understanding, Mr. BT X, that to  
10 obtain this visa and to be able to remain in the United  
11 States, that you have to cooperate with the FBI in the  
12 investigation and prosecution of Daniel Johnson?

13 "Yes."

14 Now, that's the trade that was made. What did we  
15 learn from the testimony of BT XXXXXXXX? I want to look at  
16 these component parts. First of all, BT XXXXXXXX is in the  
17 United States, which creates the availability of this visa.  
18 So we learn that a person who is a victim of crimes like  
19 those charged in this case are eligible for an extended --  
20 Mr. BT X called it a T visa if they cooperate with the FBI.

21 The FBI can and will help a cooperating witness to  
22 get an extended T visa, or if he or she keeps cooperating,  
23 the FBI will even pay for the help of an immigration lawyer.  
24 The FBI -- if the FBI asks the Department of Human Services  
25 to grant an extended visa, it's very likely to be granted.

1           That extended visa will allow someone to work in the  
2 United States. It will allow someone to go to school and get  
3 financial aid. Three years after that visa is extended you  
4 are eligible for a green card, and five years after that  
5 green card you are eligible for US citizenship.

6           Now, Mr. BT X's clock ran out, and he was in an  
7 unusual position. His clock ran out, he was literally in the  
8 country. And so the FBI had to provide this assistance maybe  
9 a little sooner than it wanted to provide. You listened to  
10 some of these kids talk about when they made the inquiry,  
11 kind of this, We will talk about that when the case is over.

12           But in any event, I think it's very, very likely  
13 that the other witnesses in this case would ask for the same  
14 sort of benefit, or the same sort of treatment that BT XXX  
15 XXXX has been given. In fact, they have said as much when  
16 they testified in this case.

17           SO XXX said -- we asked, "Did you talk to an  
18 attorney about how you could stay here after you are done in  
19 Court?" And he said, "I was just asking about going to  
20 school here, and they said that we could talk. We could talk  
21 after this, or later."

22           So in other words, this is a benefit we can talk  
23 about once this trial is done. But to suggest that it's not  
24 a benefit that is in the wings, I think really is  
25 disingenuous.

1 LS XXXXX says the same thing. I said, "When you  
2 talked to FBI Martha, do you remember telling her that you  
3 wanted to come to the United States to go to school, and to  
4 be a doctor?" And he said, "Yes, I did tell her that."

5 "Is that still your hope?

6 "Yes.

7 "And when you talked to that lawyer, did you talk to  
8 him about maybe moving to the United States?

9 "Yes, I did.

10 "And have you talked with that lawyer since you have  
11 been here, or another lawyer since have you been here, in the  
12 United States about staying here?

13 "I did.

14 "Do you think there's some chance that you will be  
15 able to stay?

16 "I hope.

17 CC XXXXXX, also one of the kids who met with the  
18 lawyer, says the same thing. Mr. Weinerman asked, "In the  
19 beginning of the interview with the FBI on March 21st, 2017,  
20 about ten minutes into that interview did you ask the FBI  
21 when you will be going to the United States?

22 "Yes.

23 "And after you told the FBI on March 21st that  
24 Daniel had sexually abused him, did you ask them whether you  
25 can go to the United States?



1 "Yes.

2 "Lindsay Alderson encouraged you to change your  
3 story again, and tell the FBI that Daniel had sexually abused  
4 you.

5 "Yes, she encouraged me to tell the truth.

6 "And you want to live with her in the United States;  
7 is that correct?

8 "Yes.

9 "And after that you told the FBI on March 21st that  
10 Daniel had sexually touched you, and you asked them if you  
11 could go to the United States?

12 "Yes.

13 "Did you talk to the attorney about trying to stay  
14 here after testifying in this case?

15 "I asked. I only asked.

16 "You asked if you could?

17 "Yes.

18 VS XXXXXXXXXXXXXXXX also testified that he was someone  
19 with a lawyer. And kind of as an aside here, VS XXXX also  
20 had some pretty significant benefits that go a little bit  
21 above and beyond witness fees. He tells you that after he  
22 finally gets through and back home with his parents, the  
23 authorities bring him a new bike. He doesn't know who the  
24 authorities are, but those same authorities apparently paid  
25 for some repairs on his parents' home. And then it's

1 clarified later that actually, they gave him a new house and  
2 put a new roof on it. So VS XXXX's benefits were  
3 significant. In these kids' minds though, it's all just  
4 coming from the authorities.

5 ES XXXXXXXX, what does he get? I would imagine  
6 ES XXX gets whatever his brother LS X gets. That seems fair.  
7 Almost certainly he would also talk to the FBI about filing  
8 some kind of lawsuit. But ES XXX Soy gets LS X back. ES XXX  
9 XXX doesn't tell the FBI that he's been abused until there's  
10 this period where all of a sudden there's a chance for him  
11 and LS X to be reunited. And another thing that ES XXXXXXXX  
12 gets is the promise that the questioning, all the authority's  
13 questioning will finally, finally come to an end.

14 You recall on cross-examination that we talked to  
15 him about how often he had been questioned. "When you met  
16 with the FBI the second time, you told them you were meeting  
17 because you wanted it to finally be over?

18 "Yes.

19 "And you believed it wouldn't be finally over until  
20 you told them that you had been sexually abused?

21 "Yes.

22 "And then you were asked to come to this country?

23 "Yes.

24 "And to talk about it yet once again.

25 "Yes.

1 "And you came with the final hope that this would  
2 finally be over.

3 "Yes.

4 "And you have said what you need to say for it to be  
5 over?

6 "Yes."

7 ES XXX's motivation lies in having it be done, but  
8 he's probably in the same position that his brother is in if  
9 there's more to be hoped for.

10 Pastor Sopheak gets control of Prey Veng and Kampot.  
11 Let me take you back --

12 THE COURT: Excuse me. It's the second time.

13 MS. MAXFIELD: These kids have cooperated with the  
14 FBI. They testified they were sexually abused in Cambodia.  
15 They come to this country and cooperated in every single way.  
16 How are they materially different from BT XXXXXXXX? They are  
17 not. They are in exactly the same position that he is, and  
18 their hopes that access to this country, just to even come  
19 here to work here, to go to school here, and even to be a  
20 citizen here, the road should be no different. All that is  
21 different, I would submit, is the timing of when that hope  
22 becomes a reality.

23 A reasonable doubt. Tell a lie once, and all your  
24 truths become questionable. Every one of these young  
25 Cambodian witnesses believes that telling a pragmatic lie is

1 okay. And they make that very clear in their testimony to  
2 you. Instead of it being wrong, a pragmatic lie is viewed as  
3 a necessary survival tool, and a tool to success.

4 For these kids truth has more to do with whatever I  
5 am saying to you right now, and it has much to do with who is  
6 asking the questions. And you can tell that that is true by  
7 what they say to you. Every kid said, I lied, I lied.

8 SO XXXXXXXX, now when -- "SO XXX, when you were first asked  
9 about sexual abuse by Daniel Johnson you said -- did you tell  
10 the truth?

11 "At first in Cambodia I didn't tell the truth. The  
12 first time with the FBI, I did not tell the truth.

13 "But you told APLE that Daniel didn't do anything to  
14 you sexually?

15 "Yes, at that time I didn't tell the truth.

16 "And about nine months later the FBI came to  
17 Cambodia, correct?

18 "The first FBI I did not tell the truth, either.

19 "So do you think it was wrong to lie about that?"

20 This is when he's talking about whether his parents  
21 are dead, and that was kind of interesting. He's telling the  
22 story about how he's been abandoned, that he can choose to  
23 stay with his uncle and live that life that has him up at  
24 5:00 in the morning and working until midnight.

25 And what does he say? "I feel it was severely wrong

1 to do that, but my cousin said I had to do that. And if I  
2 didn't do that, I wouldn't be able to live there." He was  
3 willing to tell a lie to live in a better place.

4 The other kids also said that they had lied during  
5 the investigation, and this is like a five-year  
6 investigation, so these things go back and forth and  
7 boomerang through. LS XXXXX says that he lied, as well.  
8 Talking about the interview with the FBI, "I told her, but I  
9 just told her so many times because I lied to her. There  
10 were times that I told a lie, but there were times that I  
11 told the truth."

12 ES XXXXXXXX, he lied, as well. "So when you spoke to  
13 APLE and said that Daniel had not abused you, was that the  
14 truth or a lie?

15 "It was a lie.

16 "And that same year, did you meet with a woman named  
17 Martha from the FBI?

18 "Yes.

19 "Did you lie to her, also?

20 "Yes. Everything I said was a lie. It was a lie,  
21 and it was not because I was scared and it was not because I  
22 was nervous, or anything like that.

23 "So then pretty much everything you said to Martha  
24 was untrue?

25 "Correct. It was a lie."

1           We're going to come back to this interview in a  
2 minute, because it's a significant interview in this case.  
3 But it's just a matter of fact, that was a lie. CC XXXXXX  
4 said he lied. "Did you later say that Daniel Johnson had  
5 never touched you?

6           "Yes.

7           "Was that the truth or a lie?

8           "A lie.

9           "And why did you tell that lie at the time?

10          "Because I don't want them to ask me too many  
11 questions.

12          "Okay. I understand that you are saying you lied to  
13 Martine?

14          "Answer, Yes.

15          "And you thought it was to okay to lie to Martine?

16          "Yes.

17          "And you told them that Daniel Johnson touched you?

18          "Yes.

19          "And you believed that is what they wanted you to  
20 say?

21          "Yes. But --

22          "But, go ahead.

23          "Yes. I was scared so I said I told a lie, because  
24 I don't want to have problems, you know, messy problems."

25          These kids are making decisions on what to say in

1 any given circumstance based on what tomorrow is going to  
2 look like, how messy their lives are going to be.

3 VS XXXXXXXXXXXXX also lied. This is a conversation  
4 he and I had about when Martine goes to visit VS XXXX after  
5 he's finally gone home. He's been isolated from his parents  
6 for a couple of years. "So about two years after Daniel  
7 Johnson was arrested, do you remember a man named Martine  
8 coming to your home village?

9 "Yes.

10 "And did Martine ask your parents if he could talk  
11 with you?

12 "Yes.

13 "And you and Martine went inside a church to talk?

14 "Yes.

15 "Was it a Christian church?

16 "Yes.

17 "And you didn't want to tell a lie inside the  
18 church?

19 "Yes.

20 "And you told Martine that you had exaggerated and  
21 told lies when you talked with the FBI?

22 "Yes."

23 Are you getting there?

24 Calling ten witness who have admitted to lying,  
25 depending on who is asking the questions -- and again, that's

1 how the government has couched it, and that's because now  
2 we're in trial and now they are the dominant force asking the  
3 questions.

4 Calling ten witnesses who have lied during a  
5 five-year investigation, admitted that they have lied is an  
6 evidentiary ploy to paper over the fact that the government  
7 is relying on unreliable witnesses. It's built its case on  
8 unreliable witnesses.

9 Rather than meet its burden with reliable evidence  
10 to prove beyond a reasonable doubt, the guilt of Daniel  
11 Johnson, the government calls ten witnesses, each of whom  
12 admitted to lying about the case, and then tells you, because  
13 there are ten of them, if you add them all together, that's  
14 proof beyond a reasonable doubt.

15 No. No. Together they add up to ten individuals  
16 who have told serious untruths in the course of a five-year  
17 investigation. Ten admitted nontruth-tellers don't add up to  
18 proof beyond a reasonable doubt, nor 20, nor would 50.

19 The fact that they have all come through this  
20 gauntlet and told things that are untrue doesn't make the  
21 whole more believable than the parts.

22 Reasonable doubt. The contaminating influences and  
23 coercive pressures in this case are mind blowing. The  
24 Cambodian police, or as I call them, the Canadian police  
25 which makes them seem so much nicer on horses and funny



1 hats -- but the Cambodian police are scary folks. And they  
2 aren't scary in the abstract. Every Cambodian kid knows that  
3 it's smart to be afraid of the Cambodian police.

4 The Cambodian police and the Cambodian authorities  
5 are corrupt. And they are corrupt on a scale that we can't  
6 really imagine in this country, and every Cambodian kid has  
7 adjusted life according to that truth. Karla Comstock talks  
8 about it, and Trudy Jacobsen talked about that earlier. It's  
9 a fact of life in Cambodia. It's a system built on  
10 corruption, and if you are a kid who wants to survive, if you  
11 are a deprived kid who doesn't have a lot of tools to get  
12 from point A to point B, appreciating the corruption of a  
13 Cambodian police officer is a wise thing to do.

14 There are other influences in this case, and we have  
15 got church members talking to these kids about what to tell  
16 or not to tell. When you combine God, and -- God and the  
17 sponsorship, the money, not only is it God is telling you to  
18 do this, but you might recall SO XXX who had denied, denied,  
19 denied, is now being questioned by CC XXXXXX's sponsor,  
20 Ms. Alderson. And all of a sudden has his own account of  
21 abuse. And what follows that? What follows that is a new  
22 sponsor. And maybe a new place to live.

23 So this potent combination of God and money is  
24 something you have to think about as you sift through the  
25 evidence. And we all know basically about peer pressure, and

1 that peer pressure plays it own part in a case like this when  
2 all these kids are talking. But no influence, none at all  
3 are as coercive and as corrosive as what the Cambodian  
4 National Police brought to this table.

5 The Cambodian National Police believed in an  
6 investigation by intimidation and isolation of these boys,  
7 and it had an impact. Every one of these kids talked to you  
8 about the fact that they were afraid. LS X says, "Many  
9 people came and we were afraid. It wasn't just a few." CCXX  
10 XXXX, he gives a pretty good description. "Are you scared of  
11 the Cambodian police?

12 "Scared.

13 "They have a bad reputation, don't they?

14 "Yeah, they have bad attitude in general. No good.

15 "Aggressive?

16 "Yes.

17 "Mean?

18 "Yes.

19 "Dishonest?

20 "Not honest. Not honest. Yes.

21 "You can get in trouble if you don't do what they  
22 want you to do, correct?

23 "Correct.

24 "And you can also get in trouble if you don't say  
25 what they want you to say?

1 "Yes.

2 "So you also said later that when you were talking  
3 to the FBI about a year later, that you were in a panic  
4 because of the police being there?

5 "Fear."

6 VS XXXX had the same sort of fear. "Do you remember  
7 how many police came?

8 "I don't remember. There were many.

9 "There were many?

10 "Yes.

11 "Were the children at the center, the kids at the  
12 center frightened when the police came?

13 "Yes.

14 "And you were frightened, too; is that right?

15 "Yes.

16 "The Cambodian police, they are scary.

17 "Yes.

18 Celena Ocen, the US missionary who had come, she  
19 tells this interesting story. She's there at the compound  
20 and she's there at the Hope Transition Center on the day the  
21 police swooped in. And it's a very small part of her  
22 testimony, but it gives you a picture for how frightening the  
23 Cambodian police are.

24 She says at the very end, it's late at night, and  
25 all of these kids have been questioned, and it's been a long

1 day. And the Cambodian Police are kind of swooping these  
2 kids into vans. And then there's a commotion, because the  
3 people in the village come and try to grab the children away  
4 from the Cambodian police.

5 She said, "I observed that the kids were being  
6 escorted to the van. And that there were other individuals  
7 who were trying to take the kids. And the people who might  
8 have been resisting, they were the friends, relatives of the  
9 kids, who maybe wanted them to prevent them from being taken  
10 to another location. They were just the Cambodian people."

11 So imagine this scene as the Cambodian police are  
12 collecting these kids into the vans, and people in the  
13 village -- or people in the village come to do what they can  
14 to separate the children from the Cambodian police. It tells  
15 you a lot about the impact and the influence of the Cambodian  
16 police, and the fears that the people in the community had  
17 when they find themselves interacting with these folks.

18 The prosecution witnesses also described the  
19 pressures that were put on them during this process. You  
20 have these police officers who are kind of watching -- first  
21 of all, they take over the compound. They are watching all  
22 over these kids. They take the kids and literally collect  
23 them on benches, or in corners, and tell them they are not  
24 allowed to move around, that they are basically prisoners.

25 So these kids sit there. They are coerced into

1 silence, and then they are taken off to be questioned. This  
2 is CC XXXXXX, CC XXXXXX being questioned. Look at what is  
3 surrounding CC XXXXXX. He's asked about this picture and who  
4 are these people, perhaps, it's a police agent.

5 But in any event, what does he say? They keep  
6 questioning him, there were many. The words, the question  
7 words is the same words over and over and over and over  
8 again. That's what is happening to CC XXXXXX as those grown  
9 men stand around him, asking him questions. And apparently  
10 we need to ask them over and over, because we don't get the  
11 answer we want the first time the question is asked.

12 Same thing happened with CC XXXXXX. "Was it a  
13 friendly atmosphere?

14 "Yes.

15 "And you weren't scared" -- I know, when Martine  
16 comes. Martine comes, and he's going to talk to him about  
17 what is going on.

18 "And was it a friendly atmosphere?

19 "Yes.

20 "And you weren't scared like you were when you  
21 talked to the Cambodian police?

22 "Yes.

23 "And he asked you about what happened when you  
24 talked to the Cambodian police on the day that Daniel was  
25 arrested?

1 "Yes.

2 "And you told Martine that you felt pressured to  
3 talk to the Cambodian police?

4 "Yes. And you felt like you had no choice, you had  
5 to talk to them?

6 "Yes.

7 "And you told Martine that you didn't tell the  
8 truth?

9 "Yes.

10 "And you just told them what you believed they  
11 wanted to hear?

12 "Yes."

13 LS XXXXX was questioned, as you remember. He talked  
14 about four or five policemen. Only one is asking questions,  
15 but he talks about how they are kind of circling or swarming  
16 around him as the one person is asking questions. He's very,  
17 very aware of multiple police presences as he's asking  
18 questions.

19 But even more key to what is going on with LS X this  
20 day is that he has been physically separated from his  
21 brother, ES XXX, on purpose, I would submit, because it's a  
22 two-year separation, as it turns out. But ES XXX and LS X  
23 are separated, and that's the environment, and that's the  
24 context in which LS X is questioned. And the questioning  
25 didn't end until the police heard what they wanted to hear.

1 "Let's talk about while you were still being  
2 questioned by the police. You said that they asked you  
3 questions again and again and again. Did that happen at the  
4 Hope Transition Center?

5 "Yes.

6 "So they asked you, they would not stop questioning  
7 you until you told them that you had been touched?

8 "Yes.

9 "That was the only way to make the questioning stop?

10 "Yes."

11 It's kind of interesting if we look at what happened  
12 with ES XXX that day. The Government Exhibit 105, there he  
13 is on the day that the police arrive, and he's looking away.  
14 And you recall him being asked by counsel about that look on  
15 his face, and he just didn't want to say anything to them.  
16 He's obviously not pleased to be in that environment. He's  
17 not pleased to be questioned. It's written all over his  
18 body, and it's written all over his face.

19 But the next exhibit is pretty interesting. Look  
20 how he's dressed. The very next day, 12/9 he's looking way  
21 and looking aside. By 12/10 they are back again, and he's  
22 dressed in exactly the same shirt. And now he's being  
23 questioned anew. Apparently the things that were said on  
24 12/9 weren't satisfactory to the police, so they show up  
25 again on 12/10.

1 VS XXXXXXXXXXXXXXX talks about how frightened he was  
2 by the police, but the other thing that happens to him is he  
3 is literally swept away in one of these vans that the people  
4 in the community are trying to save him from. And what  
5 happens to him over the next two years is he's literally kept  
6 away from his parents for two years. He's held in one of  
7 the -- these, I guess, orphanages, but with a connection  
8 somehow, or at least of the choosing of the government. He's  
9 not allowed any contact with his parents.

10 His parents, his mom is actually petitioning the  
11 Cambodian Courts to try to have her son back, so to have  
12 access to her son and it doesn't happen. It doesn't happen  
13 for two years, over two years before he actually gets to go  
14 home. These are the pressures that these kids found  
15 themselves in.

16 RT XX tells the story, although he tells it on  
17 cross-examination because he told it earlier, when he was  
18 first talking to FBI. When he was first talking to the FBI  
19 he said this: "When we had the problem, the police came down  
20 to interview each of us. There were a few police officers  
21 who were not convinced in what I was saying. They tried to  
22 give me the answers they wanted to hear."

23 And the FBI said, "What did they want to hear?" And  
24 RT XX said, "I think what they want to hear from us is  
25 something bad or allegation." And he describes the exact



1 same situation that you are seeing in these photos, although  
2 now he finds himself as a government witness.

3 The other key to all of this is that the authorities  
4 are the authorities are the authorities are the authorities.  
5 These kids find themselves, in the first instance,  
6 intimidated and questioned by the Cambodian National Police,  
7 but there is no daylight between the Cambodian National  
8 Police and the FBI.

9 Now, we all know that our FBI are not the Cambodian  
10 police. But they are not viewed this way. Each of these  
11 kids knows when they go in for their FBI interview, which  
12 takes place at the Cambodian National Police office, that in  
13 the room next to them is a bunch of Cambodian National Police  
14 officers who are watching what they say in these videotaped  
15 interviews.

16 I am sure that there's a not-scary reason for why  
17 that is occurring, but for these kids who are already  
18 intimidated, now they go in to be interviewed by the FBI, the  
19 people who had interviewed them at the center are now in the  
20 room next-door, watching what they say on videotape. And  
21 these kids know it.

22 CC X: "And there were some people there listening  
23 or watching from the Cambodian National Police?"

24 "Yes, perhaps watching the video.

25 "And you were concerned that if you told FBI Martha

1 different than what you told the Cambodian police, that you  
2 could get into trouble?

3 "Yes.

4 CC X, and there were people there listening or  
5 watching from the Cambodian police -- I think it was VS XXXX  
6 who also talked about it.

7 Anyway, there were several of these kids who knew  
8 that while this is going on, they are being interviewed by  
9 the FBI, supposedly a professional forensics interviewer, but  
10 in the shadows, in the back room, are the people that had  
11 intimidated them before.

12 Repeated interviews, repeated coaching. You have  
13 listened to a number of witnesses come into this courtroom  
14 and tell a story, and it's been a story that has been put  
15 together professionally. It's been a story that has, as  
16 counsel showed you, the corroborating witnesses, and all of  
17 the connections.

18 But what has come before you five years after the  
19 fact has layers and layers and layers of things that happened  
20 before. What you saw has been built over several years, and  
21 it's been built as a result of repeated interviews. And what  
22 really is repeated coaching.

23 There are nearly 30 -- we're going to move down to  
24 30 inconsistent statements. There are nearly 30 prior  
25 inconsistent statements that this case has been built on.

1 These kids have been interviewed multiple times. LS X was  
2 four. Somebody was up to five, seven, six.

3 And that doesn't include when the defense  
4 investigator went to talk to a kid, or when someone less  
5 formal, like a church person, talked to the kids. These kids  
6 have been interviewed and asked questions about the events  
7 that you heard about for a long, long time.

8 Let's look at the inconsistent things, the things  
9 different than what you heard in this courtroom. ES XXX is  
10 questioned first on the day that they come to the center.  
11 And here he is, again, in Exhibit 105, when apparently that  
12 was not a satisfactory interview, he's interviewed again the  
13 very next day.

14 In January of 2014 you heard testimony that he and  
15 SO XXX talked to the people at APLE and NGO, and told them  
16 no, we were not sexually abused. Then on November 14th --  
17 and this was the long FBI interview that the government  
18 didn't show you. But ES XXX and I talked about it. It's an  
19 interview that lasted an hour -- he recalled somewhere an  
20 hour and a half, but it really is an hour and 24 minutes.

21 And he was asked for an hour and 24 minutes again  
22 and again and again whether anyone sexually abused him. And  
23 in the course of that interview, 20 denials. That's what  
24 this case is built on. That's what ES XXX said to the FBI on  
25 November 14th in 2014, when it was the answer that he thought

1 was going to put him in the best place for tomorrow.

2 In June of 2015 he's questioned again by the defense  
3 investigator and he adamantly denies to Martine that he was  
4 sexually abused. The defense investigator comes back a year  
5 later. He still adamantly denies that he had been sexually  
6 abused.

7 Finally in March 2017 ES XXX tells the FBI what they  
8 want to hear. And he explains why he does that, that if he  
9 kept telling it like he had been telling it, that this still  
10 is not going to finish. It's not going to be over.

11 LS XXXXX. LS X's story isn't like a back and forth  
12 and back and forth. LS X's story is one that grows bigger  
13 and bigger and bigger as a result of repeated interviews. It  
14 starts small with playing with my penis, I think is what  
15 Pastor Sopheak said.

16 But he talks again about how the questioning doesn't  
17 stop. "So they asked you -- they would not stop questioning  
18 you until you told them that you had been touched?

19 "Yes.

20 "And that was the only way to make the questioning  
21 stop?

22 "Yes."

23 So with each story he adds more to the story and  
24 more to the story, but like his brother, he's a young guy who  
25 wants the questioning to end. And he believed it never would

1 unless he provided the account that the authorities were  
2 looking for, or maybe even insisting upon.

3 CC XXXXXX, again, is interviewed on December 9th.  
4 Again, they come back to him like ES XXX on December 10th for  
5 a follow-up interview. In June of 2015 he's interviewed by  
6 Martine, and we have already talked about this, but he tells  
7 Martine that he was intimidated by the Cambodian National  
8 Police, and that he simply told them what they wanted to hear  
9 and that he had not been sexually abused, and he only said  
10 that because that's what they were insisting upon. In this  
11 June 2016 when Martine comes back, he confirms that same  
12 account.

13 VS XXXXXXXXXXXXXXXX is a kid who goes back and forth  
14 and back and forth, too. He went -- but I think the two that  
15 you should pay attention to, once he's finally allowed to go  
16 home and be with his parents, he talks to his father. And  
17 his father asked him whether he's been sexually abused, and  
18 he tells him that nothing had happened with Daniel Johnson,  
19 and D had done nothing wrong.

20 And then he has this interview with Martine that  
21 takes place in the church. And I think that for VS XXXX an  
22 interview that takes place in a church actually had some  
23 meaning. And he tells Martine that he had exaggerated and  
24 told lies to the FBI when they had questioned him.

25 BT XXXXXXXX, BT XXXXXXXX started out telling people in

1 the church that he hadn't been sexually abused. And, in  
2 fact, no one had been sexually abused, and that's basically  
3 the account that he provides in the month of December.

4 So he began by denying any sexual abuse had  
5 occurred, and then a few months before his visa had expired  
6 he kind of changed course. It was then that he was  
7 interviewed by the FBI, maybe five, six more times, and with  
8 each FBI interview his story also grew. But the growth in  
9 his story is a growth that matches the promise of a visa.

10 If you -- if what the government had presented were  
11 a number of witnesses, and what you heard from these  
12 witnesses is not, they talked about a visa, and maybe I can  
13 get a visa. If what you heard from that witness was, the  
14 government gave me a million dollars to cooperate in this  
15 investigation, that would cause you some pause. And you  
16 would have to think very, very seriously about what -- the  
17 reliability of what you are hearing from the witness stand.

18 Well, what the government gave Mr. BT X is worth at  
19 least a million dollars to many, many people. You might  
20 compare it to like these E-5 investment visas that people pay  
21 a million dollars to get. Wealthy Chinese people agree to  
22 put a million dollars within the US economy to get access to  
23 our country, and to our citizenship exactly like Mr. BT X  
24 finds himself with today.

25 That's what it is worth to people to live in this

1 country. It's worth a lot. And as you are measuring motives  
2 and incentives you can't lose sight of the value.

3 Now, SO XXX had denied and denied and denied. He  
4 told APLE, along with ES XXX, that there had been no sexual  
5 abuse. And then in November, just like ES XXX, he sits in  
6 for a two-hour interview. Two hours with the FBI, and for  
7 two hours denies again and again and again and again and  
8 again that he had been sexually abused. Then boom. His best  
9 friend, BT XXXXXXXX, gets a visa. And in 2016 SO XXX tells  
10 the FBI for the very first time that he had been sexually  
11 abused, too.

12 The evidence in this case leaves reasonable doubt  
13 around every single corner. In Count 7 and 8 the government  
14 has completely failed to prove a material element of the  
15 crime. Mr. Johnson's intent and purpose for traveling to  
16 Cambodia was to bring back the charitable donations to fund  
17 the good works.

18 And all of the evidence, all of the documentary  
19 evidence, the witness evidence, everything supports that that  
20 is why he left Cambodia, and that's why he came back.

21 As to the other Counts 1 to 6, those allegations are  
22 built upon witnesses who, first of all, told you about a  
23 willingness to lie, depending on who is asking the questions.  
24 It's built upon inducements and benefits that are more  
25 valuable than almost any I've seen in any case. And it's

1 built upon inconsistencies that have papered over  
2 governmental witness coaching, and the fact that these kids  
3 really have been whipped back and forth. It happened, it  
4 didn't happen, it happened, it didn't happen, depending on  
5 which authority is asking the question.

6 In the end there's nothing but reasonable doubt if  
7 you think through the motives, and think through the history.  
8 There's only one person in this case that is entitled to  
9 reasonable doubt. When we come into these cases we think  
10 about all the witnesses, and what a struggle it is to get  
11 them on the witness stand, and go through this, and have 12  
12 grownups in a box and staring them down.

13 But the truth is in a criminal trial, there's only  
14 one person entitled to the benefit of your reasonable doubt,  
15 and that person is Daniel Johnson. In the American Courts,  
16 he's the only person who is entitled. The Constitution gives  
17 him and him alone the benefit of proof beyond a reasonable  
18 doubt.

19 BT XX, ES XXX, CC X, VS XXXX, SO XXX, none of them  
20 is entitled to proof beyond a reasonable doubt. There's only  
21 one person who is entitled to the benefit of those doubts,  
22 and that's Daniel Johnson.

23 If the witnesses give radically inconsistent  
24 accounts in this courtroom than they have given on other  
25 days, it's Daniel Johnson who is entitled to your reasonable



1 doubt. If the rewards for cooperating are so valuable that  
2 it causes pause and might tempt some people to lie, it's  
3 Daniel Johnson who is entitled to the benefit of your  
4 reasonable doubt.

5 Weaknesses in the case should never benefit the  
6 government, ever. This makes sense because there's only one  
7 person whose fate is in the balance. Every single witness  
8 here will go home to a life when this case is over, no matter  
9 the result. It is Daniel Johnson who faces the loss of  
10 liberty, and that's the reason our Constitution provides him  
11 with the protective cloak that it does.

12 Pretty soon, very soon, Daniel Johnson's fate will  
13 be yours and yours alone. When this happens, the whole  
14 dynamics in this courtroom is going to change. You will  
15 become the most powerful people in the courtroom. You will  
16 be certainly more powerful than me, more powerful than any of  
17 these folks sitting at counsel table. And in that jury room,  
18 even more powerful than Judge McShane.

19 Because your job is different than our jobs. Our  
20 job is to do the law. We are here to handle all of the legal  
21 issues. If I make a mistake on the law, if counsel makes a  
22 mistake, or even if the judge makes a mistake on the law, the  
23 Appellate Courts are there to fix our mistakes.

24 But you and only you are the finders of the facts.  
25 That is your job, your job alone. No lawyers and no Courts.

1 And sadly, your mistakes are yours alone.

2 I ask you to talk amongst yourselves as much as you  
3 can to sift through the evidence as carefully as you can, to  
4 think about the issues that have been raised and the concerns  
5 about how this case came before you, and all that lies under,  
6 historically, the testimony that you heard. And for all of  
7 those reasons, I will ask you to find my client not guilty.  
8 Thank you.

9 THE COURT: Thank you, Ms. Maxfield.

10 Do we need a break between rebuttal?

11 MR. SWEET: I would refer to the jury, Your Honor.

12 THE COURT: Do we need a short break?

13 A JUROR: We're good.

14 THE COURT: Mr. Sweet, go for it. Thank you.

15  
16 REBUTTAL CLOSING ARGUMENT

17 MR. SWEET: I think Ms. Maxfield saw a different  
18 trial than what I saw. I think she observed the witnesses in  
19 a completely different light, and I think her recollection,  
20 though, perhaps well-intended and sincere, is different in  
21 many ways. And I would like to talk about that.

22 Ms. Maxfield categorized the boys as conniving,  
23 scheming, looking for an edge in any way. But did you see  
24 boys that were open and wounded and sincere? Did you see  
25 boys who talked to you, and explained the suffering that they

1 had been through? Did you see the raw emotion in them?

2 And as far as a visa, they were open about that,  
3 too. I don't know. I talked to somebody. I don't remember  
4 their name. I thought about it. Some said yes, some said  
5 no. Where is the conniving, scheming, manipulative boys that  
6 she depicted?

7 And the other thing that Ms. Maxfield -- she ignored  
8 huge parts of this case. What happened to the disclosures  
9 that the boys made prior to the arrest of Daniel Johnson?  
10 Where did those go? How much discussion did you hear about  
11 those? I didn't hear any. How much discussion did you hear  
12 about SO XXX going to Pastor Sopheak at the second house, and  
13 talking about Daniel Johnson trying to put his penis in  
14 SO XXX? Where was that?

15 How about LS X and ES XXX going to Pastor Sopheak,  
16 LS X crying, Pastor Sopheak talking to them? Pastor Sopheak  
17 sending a message about it to BT XXXXXXXX. This is before  
18 Daniel Johnson's arrest. Did Ms. Maxfield talk about that?

19 And BT XXXXXXXX remembered getting that message that  
20 discussed this. And then Pastor Sopheak confronted Daniel  
21 Johnson about it, and he messaged BT XXXXXXXX about that, too.  
22 Where was that?

23 And then BT XXXXXXXX, BT XXXXXXXX on December 8th in  
24 America, he wrote, "Daniel tried to have sex with me but I  
25 didn't let him." So as of the day of Daniel Johnson's

1 arrest, BT XXXXXXXX is already talking about attempted sexual  
2 abuse, from BT XXXXXXXX.

3 And counsel labeled all the boys liars. Well, I  
4 think I missed that, too. Where did SESX, and SS XX and  
5 LT XXXXXXXX -- where did they lie? Those are the ones who  
6 came in March of 2017. You may remember SESX. SESX is the  
7 one who said, "I will always love him forever," when talking  
8 about Daniel Johnson. He was one who it pained him to say  
9 anything remotely negative about Daniel Johnson. How is he  
10 lying? Because he disclosed that Daniel Johnson had tried to  
11 touch his genitals on several occasions, and he also  
12 disclosed that ES XXX and SO XXX had told him about abuse  
13 prior to Mr. Johnson's arrest. Where was that?

14 What about SS XX? SS XX, who said that Daniel  
15 Johnson tried to touch his buttocks. He also said SO XXX  
16 disclosed prior to arrest. Where are the lies for that? She  
17 labeled everyone a liar, but they are not.

18 SESX, SS XX, LT XXXXXXXX, BT XXXXXXXX started early.  
19 And LS X, LS X disclosed abuse from the beginning. He  
20 disclosed more, but he disclosed abuse from the beginning.  
21 And this was painted as some professional, coached,  
22 manipulated series of events.

23 Well, that's funny because a couple of boys recanted  
24 right away. You have got the stipulation about SO XXX and  
25 ES XXX recanting to APLE. So a couple of questions about

1 that. What were they recanting? They are recanting their  
2 accusations. They are recanting something. And if the  
3 Cambodian National Police and APLE are all so corrupt, why  
4 are they reporting this recantation to the FBI?

5 This isn't some polished, professional, rehearsed  
6 presentation. Let's think about it. When did the FBI first  
7 contact SESX, SS XX, and LT XXXXXXXX? March 2018, less than  
8 two months before trial. If these boys were waiting to come  
9 to the US for money, what were they going to do, wait until  
10 late March of 2018?

11 No. The FBI reached out to them. The FBI reached  
12 out to those boys, and they came here, and they spoke. And  
13 they gave really limited disclosures. All of them were  
14 attempted touching of either the genitals or the buttocks.  
15 They didn't have the same level of abuse that you heard from  
16 others.

17 But how can they all be called liars? Just because  
18 Ms. Maxfield, with all due respect, says something, it  
19 doesn't make it true. Just because I say something, it  
20 doesn't make it true. You all are the deciders of fact. You  
21 all listen and hear and judge the evidence that comes in from  
22 the witness stand.

23 I think many things that Ms. Maxfield said, she  
24 talked about her opinion: I think or it's really very  
25 likely. Well, that's her opinion, and she's entitled to it,

1 but just because he says it 50 times doesn't make it true.

2 Evidence, opinion, and arguments. So what basis  
3 does she have for calling all these boys liars? She just  
4 gave a blanket label, and it's not true. Like Hagar, she  
5 talked about VS XXXX, VS XXXX getting a bike. I believe  
6 VS XXXX testified the bike came from Hagar, which was the  
7 center that helped boys.

8 And here's the thing that we all have to remember.  
9 These boys are dealing with a difficult, traumatic, emotional  
10 circumstance. If this were a polished presentation from the  
11 beginning, if this were coached and orchestrated, do you  
12 think it would have looked like this? Do you think you would  
13 have had recantations? Do you think you would have had these  
14 different stories?

15 No, it would have been put together from the start.  
16 But it's not. It's real. It's these boys dealing and coping  
17 with what happened to them. Boys in difficult, difficult  
18 circumstances. And here's the other thing, behind all of  
19 this --

20 Well, another thing I have to say that Ms. Maxfield  
21 didn't talk about that we're going to talk about. She didn't  
22 discuss at all the prior statements of the boys before Daniel  
23 Johnson's arrest. The other thing she didn't talk about, she  
24 didn't talk about BT XXXXXXXX's chats with Daniel Johnson.  
25 Where Daniel Johnson said, "I am not saying anyone is wrong."

1 That's after being accused already of -- "I knew long time  
2 already that you had sexual abuse to the kids." "I am not  
3 saying anyone is wrong, really."

4 Is that how people respond to that? We're going to  
5 talk about that. But that was something that you haven't  
6 heard of.

7 I need to discuss Daniel Johnson for a minute,  
8 because Daniel Johnson was the puppet master in this case.  
9 He manipulated the boys, he controlled the boys, and there's  
10 a message that we haven't discussed yet. I believe it's  
11 Exhibit 170, if that's the one I just handed over. And I  
12 want to talk to you about it for a minute.

13 So this is a message that helps to explain the  
14 influence that is put on these boys, not by the Cambodian  
15 National Police, not by the FBI, but by Daniel Stephen  
16 Johnson. So I am going to walk you through this. It's from  
17 the Gary Donna Johnson account, which the FBI discussed with  
18 you was used by Daniel Johnson's brother.

19 And in there it talks about, "I went to jail and I  
20 may need him to come to the US to testify." So I think you  
21 will be able to see that this was passed on by someone else  
22 and written by Daniel Johnson. So you are going to recognize  
23 a lot of the names in here.

24 Let's start the second line at the top. So first  
25 line starts about talking about Daniel, but then it moves

1 into -- it talks about Gary talking about Daniel, and then it  
2 goes into what I am going to call the marching orders that  
3 are being issued. "LS X still needs to be removed from  
4 Hagar." We all know who LS X is, and we all know he was  
5 staying at Hagar. "His family needs to talk to him. APLE  
6 and Hagar are trying to get him to USA for trail."

7 And this is full of misspellings but try. It talks  
8 about blank documents. But how about this: "Get him out no  
9 matter what it takes." Get LS X away from Hagar. Get him  
10 away from a neutral party. Get him back under Mr. Johnson's  
11 control.

12 And then we go to VS XXXX, and you heard about  
13 VS XXXX talking to Martine, the defense investigator.  
14 VS XXXX in Prey Veng keeps changing his story. Why would  
15 that concern Mr. Johnson, if he's changing his story? He  
16 told Mr. Martine something negative. Negative in  
17 Mr. Johnson's world means implicating him.

18 "I think he is still afraid of police. His parents  
19 need to talk to him. They think he is speaking positive but  
20 he is not."

21 So we have talked about LS X, charged victim,  
22 VS XXXX, charged victim. ES XXX, LS X's older brother, was  
23 interviewed. During the interview with Martine, he got up  
24 and walked out. Why? Because he was pro Daniel Johnson? Is  
25 that why he got up and walked out from meeting with their



1 investigator?

2 "ES XXX, please encourage him and let him know I  
3 need him, and may need him to come to the US and to testify.  
4 He needs to be strong about the police scaring him in a  
5 closed room, and trying to get him to lie."

6 This one is Tola, you will see it's Tola. Asked by  
7 David Roth if Daniel did it, and Tola said, he did. "Tola  
8 needs to clarify this." Which way do you think Tola needs to  
9 clarify this? What does Mr. Johnson want him to do? He  
10 wants him to recant that. Tola was saying that based on  
11 what, and then he gives an explanation. That's what APLE and  
12 the Cambodian police were telling him and that's firsthand  
13 knowledge.

14 Sorry, speaking too fast.

15 David Roth, FBI, Tola misconstrued.

16 Let's go on to somebody you are going to recognize.  
17 "RT XX needs to tell the investigator when he is asked that  
18 APLE and police forced his fingerprint, but the document was  
19 fortunately not negative." So truth has nothing to do with  
20 anything. Mr. Johnson just issues his marching orders as to  
21 what he needs these boys to say for his benefit, because he's  
22 trying to control everything.

23 When we talk about BT XX, BT XX says he has a plan  
24 to stay in the USA. Let's go on to CC X. It's about three  
25 lines below -- about five lines below Tola. Far right.

1 "CC X needs to speak strongly that he was told he had to  
2 continue following the police with a lie, or he would go to  
3 jail. APLE would help his family." Now CC X is another  
4 charge victim. Let's go to another charge victim.

5 "SO XXX said I gave him money after I went to jail.  
6 He needs to clarify." A lot of boys need to do a lot of  
7 clarifying in Mr. Johnson's world. "He needs to clarify that  
8 the money came from Bill and Lonna to help him with school,  
9 not from me."

10 I am going to skip down. "Warn all of them to be  
11 careful with Peter and Kelby and Lindsay" -- probably Kelby  
12 and Lindsay Alderson, we heard testimony -- "BT XX," probably  
13 BT XXXXXXXX, "Chuck and Janice." More people -- "Phillip and  
14 Sue." And you wonder why some of the boys struggle in  
15 getting a consistent story. Because Daniel Johnson is behind  
16 the scenes being the puppet master.

17 So now I have to tell you, when you look at this  
18 case from the beginning, this is not about digging wells,  
19 this is not about building churches, and feeding the hungry.  
20 Those are all good things, and I hope that some part of  
21 Mr. Johnson found that to be valuable.

22 But this case is about his systemic and repeated  
23 sexual abuse of these boys, boy after boy, time after time,  
24 year after year. That's what this case is about.  
25 Mr. Johnson, I don't think this was just a small purpose for

1 him. I think he was consumed with sexual abuse. He ran Hope  
2 Transition Center as his practical personal sexual  
3 playground.

4 And that's what he did to these boys there. He  
5 would go in at night, and choose which boy he wanted. And  
6 yes, did they need funds to keep it running? Sure he did.  
7 He would go back to America and get funds. Did he do some  
8 good things with those funds? Yes, he did, and that's a good  
9 thing. We're not saying every waking moment of Mr. Johnson's  
10 life was filled by nothing but abuse.

11 I am sure if he saw one of his children fall and  
12 scrape their knee he would pick them up, dust them off, and  
13 put a bandage on. But then he was abusing too many of them  
14 at night in his room.

15 And this case is not about money, or about visas.  
16 Do you really think -- again, the defense is viewing these  
17 boys through a scheming, grasping, they are from a poor  
18 country, therefore, they are all just coming to say anything  
19 for money.

20 Do you think they got on a plane and flew over here  
21 and sat in the same room with the man who molested them, and  
22 took the stand and disclosed the most personal, graphic  
23 details they will hopefully ever have to say in their entire  
24 life? Do you think they did that for a per diem? You all  
25 presumably get a juror fee. I hope you get money for gas,

1 and a per diem for your hotel.

2 Do you feel compromised or bought? Is it worth more  
3 to them than it is to you? Sure. But is that why they are  
4 here? You heard them say, We didn't even know how much we  
5 were getting. Do you think when the Cambodian police came to  
6 Hope Transition Center on December 9, 2013, do you think  
7 those boys knew, well, Daniel Johnson's sexual abuse of me  
8 can be prosecuted in the United States of America?

9 How many of you, how many people do you think know  
10 that this crime, a crime committed in Cambodia, can be  
11 prosecuted here? How many teenagers do you think know that?  
12 How many 11-year-olds know that? And how many 11-year-olds  
13 in Cambodia at an orphanage know that?

14 They came here. They weren't bought. They are not  
15 here for a visa. There's no orchestrated scheming plan. You  
16 have all those boys saying -- and you have BT XXXXXXXX saying,  
17 halfway across the world at the same time.

18 Exhibit 277, please. This is going to take a second  
19 because I didn't tell them this one was coming.

20 This is BT XXXXXXXX and Knot. Second page, please  
21 very bottom, Knot, December 9th. "Did you have sex with  
22 him?" "No." It's on the next page. "He tried to but I  
23 didn't allow." Let's go back to the very first page, please.  
24 BT XXXXXXXX, December 8th, "I know Daniel is a good man but  
25 he's kind of demon spirit stay inside him. I have been

1 praying for him for six years and I did go talk with him, but  
2 he's still the same."

3 How is this a last-minute fabrication? That's  
4 December 8th of 2013, and he's talking about -- he's talking  
5 about not just what Daniel Johnson tried to do to him, but  
6 what he's been thinking about this whole time. And this  
7 isn't to the FBI. This is to Daniel Johnson's girlfriend  
8 that he's having the conversation with.

9 See, I talked to you about SESX. SESX who said, "I  
10 will always love him forever." And SO XXX said something  
11 like, "I loved him like my father." BT XXXXXXXX, he was  
12 worried about Mr. Johnson going to heaven, and he was  
13 concerned about his soul.

14 Are these young men with an axe to grind? Are these  
15 young men here who are vindictive, or they are trying to get  
16 something? It's not because of any benefit that they are  
17 here. It is in spite of Daniel Stephen Johnson's efforts to  
18 keep them from being here. It is in spite of the shame and  
19 the embarrassment. It is in spite of his efforts to silence  
20 them that they are here.

21 They endured. They sacrificed to be at that  
22 orphanage. There was a price to be paid for being at that  
23 orphanage, and that price for too many was sexual abuse. Why  
24 did they pay that price? BT XXXXXXXX told you. "Daniel gave  
25 money for my sick dad, and money for university." And BT XX

1 was going to be the first person to graduate university.

2 And LS X, what did LS X say when the police first  
3 came? This was LS X talking on the stand. When the police  
4 came he said, "I was afraid that we were not going to have a  
5 place to stay and we couldn't go to school anymore."

6 They are not going to jeopardize their situation.  
7 They are an impoverished country in a vulnerable situation.  
8 Mr. Johnson is the food on the table, the roof over their  
9 head, and the money for the school. And they are going to  
10 make something up and throw it all away for an uncertain  
11 future? For why? They cared about him.

12 Again, they are here in spite of Daniel Johnson's  
13 efforts to silence them. What did he say? He wrote to Becka  
14 Norris, "Silence is golden." He wrote to Lindsay Alderson,  
15 "Silence is all that we can do now." To BT XXXXXXX, "Peace  
16 upon you and your tongue and wisdom in your thoughts, words,  
17 actions. Healing does not begin until we stop picking at the  
18 scab."

19 In other words, stop talking BT XX. Stop talking.  
20 "Healing doesn't begin until we stop picking at the scab,  
21 peace on your tongue." He's trying to get them to be quiet.

22 And I have to talk about Pastor Sopheak for a minute  
23 more. You see, I talked about these boys enduring the abuse,  
24 and endure they did, but there was a limit. Because SO XXX  
25 went to Pastor Sopheak, and Pastor Sopheak can tell you what

1 house it was, second house, what room it was. What that  
2 meeting followed. It followed a sermon about sin.

3 And SO XXX came and talked to him, and told Pastor  
4 Sopheak about what he did. And Pastor Sopheak didn't do  
5 anything with that information. And that's to his regret,  
6 because Pastor Sopheak -- you may recall he had kind of a  
7 nervous laugh. He smiled at times when it didn't make sense  
8 to smile, but then at the end I asked him, "Do you regret not  
9 telling anyone about SO XXX?" And he said, essentially,  
10 "It's really hard for me to think about that. I don't feel  
11 good inside. It's a burden that I carry, and I want to take  
12 a burden and release it. I feel like it's something I have  
13 to carry with me all the time and I want to be free."

14 Do you remember Pastor Sopheak on that stand? Do  
15 you remember him, how upset he was? Well, the good thing  
16 that came of that, is it stiffened his spine, because the  
17 next time those boys came to him he did something about it.

18 Because LS X and ES XXX, they came to Pastor  
19 Sopheak. Now we're at the third house. And it was kind of  
20 a -- I think it started with ES XXX, and ES XXX went and  
21 spoke to Pastor Sopheak. And LS X was there, and LS X was  
22 just crying. And Pastor Sopheak, he sent a message to BT XXX  
23 XXXX about this, and he gave you the date of the message,  
24 November 24th, 2014. And then he went and confronted Daniel  
25 Johnson.

1 And Daniel Johnson said something like, "Well, they  
2 wanted something from me, and I didn't give it to them and  
3 they made this up." And remember ES XXX telling this from  
4 the other end, and he could hear the raised voices from in  
5 there. And then Pastor Sopheak sent another message  
6 afterwards to -- sent another message to BT XXXXXXXX. BT XXX  
7 XXXX remembered that, too.

8 And so you now have SO XXX disclosing beforehand.  
9 You have LS X and ES XXX disclosing beforehand. You have  
10 someone else who didn't endure in silence, and that's LT XXX  
11 XXXX. He just got up and left. He got up and left. I think  
12 it was three times that he said Daniel Johnson tried to touch  
13 his penis. He left, and he left his little brother there.  
14 He walked away from the orphanage, and you have heard about  
15 the hardship these boys suffer.

16 I think somewhere in one of the defense exhibits is  
17 a summary of LT XXXXXXXX and his life, and what he came from.  
18 And what he would be going back to. I don't think everything  
19 on that summary is correct, because I think -- but it  
20 describes what they were risking and losing by walking away.

21 And then we talked about BT XXXXXXXX, December 8th.  
22 And I am going to talk about BT XXXXXXXX, and I am not going  
23 to keep you much longer. But BT XXXXXXXX, he confronted  
24 Daniel Johnson. And this is Exhibit 163. And if you want to  
25 see anything that is full of information about this case,



1 it's Exhibit 163.

2 And on page 2414 BT XX says, as clearly as you could  
3 say, "I knew long time already that you had sexual abuse to  
4 kids but I didn't want to defile you." He goes on. Daniel  
5 Johnson in responding, he doesn't deny it. He doesn't admit  
6 it. The conversation continues. Later BT XX says, "Then you  
7 did appropriate to LS X and ES XXX." And again you are not  
8 going to see denials when you go through, but what you will  
9 see is sort of a back and forth. And finally BT XX, BT XX  
10 writes, "What did I do wrong? Just say the truth about what  
11 I had seen and experience with you in Cambodia."

12 Page 2421, and what is the response from  
13 Mr. Johnson? "I am not saying anyone is wrong. I am just  
14 saying that might be the wrong spirit in a situation based on  
15 scripture. I tell you I did nothing in the USA." And then,  
16 "I assure you there is nothing in Vietnam." But what about  
17 Cambodia? What about Cambodia? And it goes on.

18 And BT XX says later, "I really don't want to say  
19 anything" -- anything negative -- "but when people ask me  
20 what is the truth I can't lie." And Mr. Johnson gives some  
21 helpful answers for BT XX, "Brother, sometimes saying I am  
22 sorry, I don't want to talk about it or I don't want to speak  
23 anything negative or I don't know for sure. Right now the  
24 best thing you can do is pray, or I would like to think not."

25 We would all like to think not. But that's not the

1 case. Mr. Johnson didn't say, BT XX, you are lying. BT XX,  
2 this isn't true. BT XX, I didn't do anything. He didn't  
3 even ask who, who did I supposedly molest. That's not asked  
4 in here. He does say, "Peace upon you and your tongue." He  
5 does say, "Stand with me and stand close."

6 You see, at the end of the day, these boys, what  
7 they needed was they needed love from a parent. They needed  
8 that affection, and what Mr. Johnson wanted was sex. He took  
9 the love and the need and the affection in these boys, and  
10 twisted it into his personal sexual gratification.

11 SESX, SESX described Daniel Johnson coming in with a  
12 flashlight at night and taking a boy, his brother, SS XX. He  
13 described seeing Mr. Johnson come in and carry boys out of  
14 the rooms. We all know who his favorites are, you heard  
15 them. They are the boys who spent all the time in his room.  
16 A lot of those boys, the same ones who were abused.

17 See this case is not about wearing a towel that is  
18 too short. It's not about sending really weird romantic text  
19 messages or texts to the boys. It's not about getting a lot  
20 of massages. It's not even about having boys in your room.  
21 It's what he did to those boys' bodies once they were in his  
22 room. That's what this case is about.

23 Daniel Johnson needed to silence the boys, and you  
24 heard why. He violated their trust. He violated their  
25 bodies. And he violated the law. And you should find him

1 guilty of each and every crime that he committed. I thank  
2 you for your attention.

3 THE COURT: Folks, I have a short instruction to  
4 give you. I will come down here, because we have a screen.

5 When you begin your deliberations, select one member  
6 of the jury to act as the presiding juror or foreperson who  
7 will preside over your deliberations and speak for you in  
8 Court.

9 The presiding juror doesn't have any greater voting  
10 weight than any other juror, but is to be the spokesperson  
11 for the jury. You will then discuss the case with your  
12 fellow jurors to reach agreement, if you can do so. Your  
13 verdict, whether guilty or not guilty, must be unanimous. As  
14 well as with the individual questions you are being asked to  
15 answer, those must be unanimous.

16 Each of you must decide this case for yourself, but  
17 you should do so only after you have considered all of the  
18 evidence, discussed it fully with the other jurors, and  
19 listened to the views of your fellow jurors.

20 Do not be afraid to change your opinion if the  
21 discussion persuades you that you should, but do not come to  
22 a decision simply because other jurors think it is right.

23 It is important that you attempt to reach a  
24 unanimous verdict but, of course, only if each of you can do  
25 so after having made your own conscientious decision. Do not

1 change an honest belief about the weight and effect of the  
2 evidence simply to reach a verdict.

3 Perform these duties fairly and impartially. Do not  
4 allow personal likes or dislikes, sympathy, prejudice, fear  
5 or public opinion to influence you. You should also not be  
6 influenced by any person's race, color, religion, national  
7 ancestry, gender, sexual orientation, profession, occupation,  
8 celebrity, economic circumstances, or position in life or in  
9 the community.

10 It is your duty as jurors to consult with each other  
11 and deliberate with one another with a view towards reaching  
12 an agreement if you can do so. During your deliberations,  
13 you should not hesitate to reexamine your own views and  
14 change your opinion if you are persuaded that it is wrong.

15 If it does become necessary to communicate during  
16 deliberations with me, you may send a note through Ms. Pew,  
17 signed by one or more of you. No member of the jury should  
18 ever attempt to communicate with me except by signed writing,  
19 and I will respond to the jury concerning the case only in  
20 writing or here in open court. If you send out a question I  
21 will consult with the lawyers before answering it, which may  
22 take some time. You may continue your deliberations while  
23 you wait for an answer to any question.

24 Remember that you are not to tell anybody, including  
25 me and Ms. Pew, how the jury stands, numerically or

1 otherwise, on any question submitted to you, including the  
2 question of the guilt of Mr. Johnson, until after you have  
3 reached a unanimous verdict or have been discharged.

4           You have seen the verdict form. The parties have  
5 gone over it with you. When you have answered all of the  
6 questions on the verdict form, the presiding juror will sign  
7 the form, date it, and then notify the bailiff and we will  
8 reassemble to take your verdict.

9           It's up to you to decide what you want your schedule  
10 to look like. We want you to have as much time as you need.  
11 You are certainly welcome to go later today, if you wish. At  
12 some point, Ms. Pew might ask you, because we need to make  
13 sure some of the staff is still here to let people in and out  
14 of the building, if we need to. And then you can certainly  
15 set a time if you wish to return tomorrow.

16           So that is completely up to you how you want to  
17 schedule your time. There are two of you that are alternate  
18 jurors, and I know this doesn't -- seems unfair, I know.

19           So we have Mr. Watt and Nicki Taylor, so you are our  
20 two alternates. And you, at this time, are excused. You can  
21 go back and gather your things.

22           Couple of things, No. 1, I know it seems unfair that  
23 you want to say something to these 12, but it's these 12 who  
24 deliberate. You don't get to deliberate with them. Here's  
25 the other thing. We have to have 12 at the end of the case.

1 If an emergency occurs we have to call one of you back. So  
2 as a result, I am going to still admonish you don't look up  
3 information about the case. Don't talk to anybody about the  
4 case until we inform you that this jury has reached a verdict  
5 or it's been discharged.

6 It has happened before where somebody, one juror  
7 during deliberations gets so sick that we have to call back  
8 one of the alternates and ask you all to begin your  
9 deliberations all over again. That's why we hold you here  
10 until the very end to hear all of these instructions.

11 So this is how we do reach a resolution to conflict  
12 in our community. You know, it's not judges who make these  
13 decisions. It's not angry moms. It's not soldiers or  
14 religious leaders. We bring in people from the community.  
15 12 of you have stepped up and taken that vow to be jurors,  
16 and resolve this for us.

17 And I want to thank all of you for the time you put  
18 into this case. I will now have you return to the jury room.  
19 The verdicts will -- excuse me, the instructions will be  
20 brought back for you to have. I think each of you will have  
21 a copy, as well as all of the exhibits that have been  
22 received into evidence for you to look at.

23 You can begin your deliberations immediately  
24 following picking your presiding juror. But with that, I  
25 would like to thank all of you.

1 We can stay standing for my oath to the bailiff.

2 THE COURT: Do you solemnly swear to keep this jury  
3 together in some private and convenient place; that you will  
4 not permit any person to speak or communicate with them, nor  
5 do so yourself, unless by order of the Court; or to ask them  
6 whether they have agreed upon a verdict; that you will return  
7 them into court when they have agreed, or ordered by the  
8 Court?

9 COURT CLERK: I will.

10 THE COURT: Ms. Pew will have you back to the jury  
11 room. Thank you very much.

12 (Jury Out.)

13 THE COURT: People can be seated. I assume Ms. Pew  
14 knows how to get ahold of everybody, but make sure she has  
15 your cell phone and e-mails. Around 4:30 I will have her  
16 check with the jury and see if they are going to go past  
17 5:00, if we need to let our security folks know if that's the  
18 case, or whether they are going to break at a particular  
19 time. So she will get ahold of you if there's any questions  
20 or anything else occurs.

21 Anything else we need to discuss?

22 MR. SWEET: Nothing from the government, Your Honor.

23 MR. WEINERMAN: Nothing from the defense.

24 THE COURT: All right. Again, I have already told  
25 you this, but both sides did an incredibly professional job,

1 and both sides, obviously, put an incredible amount of work  
2 into this case. And it clearly showed by the preparation and  
3 professionalism of the attorneys. I really appreciate it.

4 We will hear from people soon.

5 (Proceedings concluded at 3:27 p.m.)  
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1 STATE OF OREGON )

2 ) ss

3 COUNTY OF YAMHILL)

4  
5 I, Deborah L. Cook, RPR, Certified Shorthand  
6 Reporter in and for the State of Oregon, hereby certify that  
7 at said time and place I reported in stenotype all testimony  
8 adduced and other oral proceedings had in the foregoing  
9 hearing; that thereafter my notes were transcribed by  
10 computer-aided transcription by me personally; and that the  
11 foregoing transcript contains a full, true and correct record  
12 of such testimony adduced and other oral proceedings had, and  
13 of the whole thereof.

14 Witness my hand and seal at Dundee, Oregon, this  
15 1st day of June, 2018.

16  
17 /s/ Deborah L. Cook, RPR, CSR

18 \_\_\_\_\_  
19 DEBORAH L. COOK, RPR  
20 Certified Shorthand Reporter  
21 OREGON CSR #04-0389  
22 CALIFORNIA CSR #12886  
23 WASHINGTON CSR #2992  
24  
25